

## Unit 4: Lesson 28: To What Extent Can the Law Correct Injustices & Other Problems in American Society?

Overview: The lesson focuses on the question of to what extent can the Constitution & other laws be used in addressing injustice & other problems in modern-day America? What issues are the most controversial issues raised by \_\_\_\_\_ using the 14th Amendment \_\_\_\_\_ clause?

### Critical Thinking: 146

The 19th Century observer of American democracy, \_\_\_\_\_ de Tocqueville, observed that most \_\_\_\_\_ issues in the United States eventually become \_\_\_\_\_ questions. What he meant was that Americans try to address and resolve their problems in terms of law and \_\_\_\_\_ principles.

#### What have been some recent efforts to end unfair discrimination in American society?

In recent years, the \_\_\_\_\_ protection clause of the 14th Amendment has been expanded to prevent \_\_\_\_\_ on the basis of age, gender, disabilities, and ethnic background as well as race. From the Civil Rights Act of 1964: Equal \_\_\_\_\_ Opportunities Commission: Set up to monitor the compliance of the Civil Rights Act of 1964. \_\_\_\_\_ Act of 1963: Prohibited discrimination on the basis of gender in job pay (does not include private business). Equal Employment Opportunities Act of 1972: Extended protection for \_\_\_\_\_ in the workplace by outlawing discrimination in the award of medical benefits. Education Amendment Act of 1972: Outlawed \_\_\_\_\_ discrimination in any educational program that received \_\_\_\_\_ aid.

#### Why do some people claim that equality of opportunity is not enough to remedy past injustice?

Some people argue that the American emphasis on “equality of \_\_\_\_\_” instead “equality of \_\_\_\_\_” results in an unacceptable inequality in our society. They argue the emphasis on equality of rights does not address wide differences in wealth, power, and education.

Examples are:

1. Political influence-Many Americans are \_\_\_\_\_-educated and do not understand how government works in order to influence its decisions. People who are wealthy, \_\_\_\_\_-educated and connected with powerful people are often able to influence government for their own \_\_\_\_\_.
2. Rights of the accused- The more \_\_\_\_\_ one has the better representation one can afford. Indigent people are left with over worked and less experienced \_\_\_\_\_ defenders in most cases.
3. Right to an education- Although the Constitution does not guarantee the right to \_\_\_\_\_, every state offers free \_\_\_\_\_ education. The quality of education historically varies widely (larger class sizes, poor facilities, fewer educational materials, lower teacher salaries, and poor equipment).

## Why were affirmative action programs started?

Many people believe that eliminating the legal barriers to equal opportunity is not enough. The effects of past \_\_\_\_\_ and continued \_\_\_\_\_ against women, racial and ethnic minorities, and others, still exist. They believe that something positive or “\_\_\_\_\_,” must be done to further the goal of equality of \_\_\_\_\_. With the urging of President Lyndon \_\_\_\_\_ Congress created programs known as affirmative \_\_\_\_\_ programs for women & minorities were designed to remedy the effects of past \_\_\_\_\_. Affirmative action includes the following types of programs:

### Aggressive \_\_\_\_\_ programs

Conducted by business, industry, and government to make sure that when \_\_\_\_\_ in education and employment occur, \_\_\_\_\_ and members of minority groups are encouraged to apply for them.

### Remedial programs

These include education programs in pre-school and in elementary and secondary schools. They are designed to help students with particular educational and economic needs gain the basic skills to succeed in school and in the job market. Some help students to learn useful occupations. Others give remedial \_\_\_\_\_ and assistance to students in \_\_\_\_\_ as well as adults who want to improve their knowledge and skills. There is little \_\_\_\_\_ over remedial programs.

### Preferential treatment programs

These are designed to \_\_\_\_\_ for the effects of past discrimination against women and minorities. These programs are designed to give members of these groups \_\_\_\_\_ treatment in gaining jobs and access to higher education. Arguments for include:   Balance advantages \_\_\_\_\_ men have received from hundreds of years of \_\_\_\_\_ treatment.   Promote \_\_\_\_\_ in colleges & universities in order to produce a less race-conscious and more \_\_\_\_\_ fair society.   Include people in different racial, religious, and ethnic groups whose perspectives help to improve educational programs for all.

## What issues are raised by affirmative action programs?

It is argued that, each American should be rewarded according to his or her own \_\_\_\_\_, and not because of favoritism, privilege, or membership in a particular group. Hiring or granting other benefits to individuals based on explicit racial \_\_\_\_\_, however, is illegal except where \_\_\_\_\_ to remedy the effects of demonstrated past discrimination. Group entitlements-benefits provided by government to which recipients have a legally enforceable right-in education & employment has led to claims of unfairness from those who do not belong to groups receiving \_\_\_\_\_ treatment. Critics of affirmative action claim that such programs as quotas results in \_\_\_\_\_ discrimination.

## Regents of the University of California v. Bakke (1978)

As part of its affirmative action program, the Medical School of the U of Cal. At Davis, set aside \_\_\_\_\_ places for minorities out of its entering class of \_\_\_\_\_ each year.

Bakke, a \_\_\_\_\_ - \_\_\_\_\_ applicant sued after he was denied admission even though his test scores were higher than most of those of the minority applicants.

Bakke sued claiming the university policy of admissions violated the \_\_\_\_\_ and denied him the \_\_\_\_\_ protection of the laws guaranteed by the \_\_\_\_\_.

The 1964 Civil Rights Act makes it unlawful to exclude anyone on the basis of race from any program receiving \_\_\_\_\_ funds.

Bakke won his case 5-4 in the Supreme Court and created what has become known as \_\_\_\_\_

### **What guidelines has the Supreme Court used in dealing with issues of affirmative action?**

Since the Bakke decision, the Supreme Court has ruled on several cases involving preferential treatment. Its decisions have not always been consistent, but they have produced the following general guidelines:

- Affirmative action programs should be \_\_\_\_\_ arrangements to remedy the consequences of past \_\_\_\_\_.
- Any particular program should be designed to remedy the consequences of past discrimination in a \_\_\_\_\_ situation rather than the more general problems of injustice in \_\_\_\_\_ at large.
- In applying an affirmative action program, the chance of unfair consequences for nonminority individuals should be minimized. The Supreme Court, however, has ruled that even \_\_\_\_\_ may be used as a temporary remedy when the problems resulting from past discrimination are particularly \_\_\_\_\_.



**Lady Justice is Blind...weigh the evidence to determine a verdict.**