

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

(Lecture/Reading Notes)	
<p><b><u>Overview:</u></b></p>	<p>The lesson focuses on the question of to what extent can the Constitution &amp; other laws be used in addressing injustice &amp; other problems in modern-day America? What issues are the most controversial issues raised by _____ using the 14<sup>th</sup> Amendment equal protection clause?</p>
<p>Critical Thinking: 146</p>	<p>The 19<sup>th</sup> Century observer of American democracy, _____ <b>de Tocqueville</b>, 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.</p>
<p><b>What have been some recent efforts to end unfair discrimination in American society?</b></p>	<p>In recent years, the _____ protection clause of the 14<sup>th</sup> Amendment has been expanded to prevent _____ on the basis of age, gender, disabilities, and ethnic background as well as race.</p> <p>From the <b><u>Civil Rights Act of 1964:</u></b></p> <p><b>Equal _____ Opportunities Commission:</b> Set up to monitor the compliance of the Civil Rights Act of 1964.</p> <p>_____ <b>Act of 1963:</b> Prohibited discrimination on the basis of gender in job pay (does not include private business).</p> <p><b>Equal Employment Opportunities Act of 1972:</b> Extended protection for _____ in the workplace by outlawing discrimination in the award of medical benefits.</p> <p><b>Education Amendment Act of 1972:</b> Outlawed _____ discrimination in any educational program that received _____ aid.</p>
<p><b>Why do some people claim that equality of opportunity is not enough to remedy past injustice?</b></p>	<p>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:</p> <ol style="list-style-type: none"> <li>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 _____.</li> <li>2. Rights of the accused- The more _____ one has the better representation one can afford. Indigent people are left with overworked and less experienced _____ defenders in most cases.</li> <li>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).</li> </ol>

<p><b>Why were affirmative action programs started?</b></p>	<p>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 &amp; minorities were designed to remedy the effects of past _____. Affirmative action includes the following types of programs:</p>
<p><b>Aggressive programs</b></p>	<p>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.</p>
<p><b>Remedial programs</b></p>	<p>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.</p>
<p><b>Preferential treatment programs</b></p>	<p>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.</p> <p>Arguments for include:</p> <ul style="list-style-type: none"> <li>• Balance advantages _____ men have received from hundreds of years of _____ treatment.</li> <li>• Promote _____ in colleges &amp; universities in order to produce a less race-conscious and more _____ fair society.</li> <li>• Include people in different racial, religious, and ethnic groups whose perspectives help to improve educational programs for all.</li> </ul>
<p><b>What issues are raised by affirmative action programs?</b></p>	<p>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 &amp; 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.</p>

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

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

Check out the link below for a one-page summary covering this landmark case on affirmative action. Do you think Bakke was discriminated against? Explain?

[http://www.oyez.org/cases/1970-1979/1977/1977\\_76\\_811/](http://www.oyez.org/cases/1970-1979/1977/1977_76_811/)

**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 \_\_\_\_\_.**