

Civil Rights

International Encyclopedia of the Social Sciences, 2008
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The term civil rights refers to equal treatment for individuals under the law. Political scientists Morris Fiorina, Paul Peterson, D. Stephen Voss, and Bertram Johnson define civil rights as “embody[ing] the American guarantee to equal treatment under the law—not just for racial groups, as people often assume, but more generally” (2007, p. 381). Civil rights are related to, but distinct from, civil liberties and human rights. In the American context, civil liberties are the freedoms granted to citizens in the Bill of Rights, the first ten amendments to the U.S. Constitution. These include, among other things, the freedoms of speech, peaceable assembly, and religion; protections against unreasonable searches and seizures, forced self-incrimination, and cruel and unusual punishment; and, for criminal suspects, the rights to a trial by jury and to representation by an attorney. These protections derive largely from the First, Fourth, Fifth, Sixth, and Eighth Amendments, all part of the Bill of Rights. Many other nations also grant both civil rights and civil liberties to their citizens through their constitutions or legislation.

Human rights are those rights that most scholars believe all human beings should have, regardless of which nation they live in. In 1948 the United Nations adopted the Universal Declaration of Human Rights, which declares that human rights include, among other things, rights to life, liberty, security, travel, property ownership, education, free thought and religion, work, rest, leisure, and an adequate standard of living. The declaration also prohibits governments from certain practices, including torture and arbitrary arrest and detention. Human rights, then, are conferred not by individual nations, but by virtue of being human. Human rights may also be more broadly defined to include some rights outside the reach of both civil rights and civil liberties.

CIVIL RIGHTS AND DIFFERENT TREATMENT OF INDIVIDUALS

Civil rights derive from the U.S. Constitution, specifically the Fourteenth Amendment’s equal protection clause, which states that government cannot “deny to any person within its jurisdiction the equal protection of the laws.” In practice, government often draws distinctions between individuals, and the Fourteenth Amendment prohibits some, but not all, of these distinctions. When governments can treat people differently is a question often resolved by the courts. Some distinctions, such as race, are automatically suspect; the courts apply “strict scrutiny,” where government must demonstrate a “compelling state interest” and show there is no other way to pursue that interest. This test is very difficult to meet. In 1978 the Supreme Court prohibited a strictly race-based quota system for admitting students to the medical school at the University of California at Davis. In 1995 the Court prohibited a program that awarded municipal contracts to minority-owned firms on the basis of race.

Other distinctions, such as gender, receive “heightened scrutiny,” which is somewhat less demanding. Still, the courts often overturn government actions that treat men and women differently. In 1976 the Supreme Court overturned an Oklahoma law that established a drinking age of twenty-one for men but eighteen for women. And in 1996 the Court prohibited the state-run Virginia Military Institute’s policy of admitting only male students. Still other distinctions, such as age, are evaluated by the courts based on whether the government can show a “rational basis” for its action. For example, states seeking to place special restrictions on issuing driver’s licenses to people over seventy-five years old must only show that the state’s actions are reasonably related to promoting a legitimate government purpose. In short, the answer to the question “when can government treat individuals differently?” depends on the basis for classifying people.

CONSEQUENCES OF THE ABSENCE OF CIVIL RIGHTS

Civil rights are widely regarded as essential in democratic societies. The absence of civil rights would mean governments have few limits against enacting laws that enshrine unequal treatment by declaring some groups superior to others. American history provides many examples. The extreme racial segregation and

discrimination against southern blacks between 1880 and 1965 resulted from the conviction among most southern whites that civil rights did not exist for blacks. Without civil rights, government could pass laws prohibiting blacks from holding certain kinds of jobs or requiring black and white schoolchildren to attend segregated schools, as many, mostly southern, states did before the Supreme Court prohibited segregated public schools in 1954. Without civil rights, government could not require that women be admitted to state-supported military academies, be allowed to practice the occupation of their choice, or even be allowed to hold checking accounts in their own name. Without civil rights, public buildings would not necessarily be accessible to the physically disabled, as the 1990 Americans with Disabilities Act requires. Without civil rights, governments would be free to declare same-sex sodomy (but not opposite-sex sodomy) illegal—as Texas and several other states did before the Supreme Court overturned such laws in 2003. Without civil rights, governments could pass restrictive immigration laws targeting people of certain national origins, denying them entry.

Guarantees of civil rights, then, protect people based on race and ethnicity, but also other factors, including nationality, gender, disability status, and sexual orientation. The presence of civil rights protects citizens against discrimination by their government, and often, by private action. The absence of civil rights opens the door to group-based domination, discrimination, and oppression, and would raise serious doubts about any society's claim of upholding "liberty and justice for all."

SEE ALSO [Black Power](#) ; [Citizenship](#) ; [Civil Disobedience](#) ; [Civil Liberties](#) ; [Civil Rights Movement, U.S.](#) ; [Constitution, U.S.](#) ; [Disability](#) ; [Due Process](#) ; [Equal Protection](#) ; [Human Rights](#) ; [Public Rights](#) ; [Sexual Orientation, Social and Economic Consequences](#)

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Source Citation:

"Civil Rights." *International Encyclopedia of the Social Sciences*. Ed. William A. Darity, Jr. 2nd ed. Vol. 1. Detroit: Macmillan Reference USA, 2008. 548-550. *Gale U.S. History In Context*. Web. 12 Oct. 2010.

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