

Equal Protection of the Law

Reader's Guide

Key Terms

rational basis test, suspect classification, fundamental right, discrimination, Jim Crow laws, separate but equal doctrine, civil rights movement

Find Out

- What is the constitutional meaning of "equal protection"?
- How has the Court applied the Fourteenth Amendment's equal protection clause to the issue of discrimination?

Understanding Concepts

Constitutional Interpretations Why do Supreme Court decisions in discrimination cases rest largely on the Fifth and Fourteenth Amendments?

COVER STORY

Pizza Refusal Illegal?

KANSAS CITY, MISSOURI, JANUARY 1997

Is this discrimination in pizza delivery? Paseo Academy, a city magnet school, planned a big mid-day pizza party for honor-roll students. Pizza Hut refused delivery of a \$450 pizza order explaining that the area was unsafe—one of its "trade area restrictions" based on crime statistics. A local chain, Westport Pizza, filled the order. Principal Dorothy Shepherd later learned that Pizza Hut had a \$170,000 contract to deliver pizzas to 21 Kansas City schools, including Paseo. A school board committee recommended canceling the contract.



The politics of pizza

Many forms of discrimination are illegal. The Declaration of Independence affirmed an ideal of American democracy when it stated "all men are created equal." This statement does not mean that everyone is born with the same characteristics or will remain equal. Rather, the democratic ideal of equality means all people are entitled to equal rights and treatment before the law.

Meaning of Equal Protection

The Fourteenth Amendment forbids any state to "deny to any person within its jurisdiction the equal protection of the law." The Supreme Court has ruled that the Fifth Amendment's due process clause also provides equal protection.

Generally the equal protection clause means that state and local governments cannot draw unreasonable distinctions among different groups of people. The key word is *unreasonable*. In practice, all governments must classify or draw distinctions among categories of people. For example, when a state taxes cigarettes, it taxes smokers but not non-smokers.


When a citizen challenges a law because it violates the equal protection clause, the issue is not whether a classification can be made. The issue is whether or not the classification is reasonable. Over the years the Supreme Court has developed guidelines for considering when a state law or action might violate the equal protection clause.

The Rational Basis Test The rational basis test provides that the Court will uphold a state law when the state can show a good reason to justify the classification. This test asks if the classification is "reasonably related" to an acceptable goal of government. A law prohibiting people with red hair from driving would fail the test because there is no relationship

between the color of a person's hair and driving safely. In *Wisconsin v. Mitchell*¹ (1993), however, the Supreme Court upheld a state law that imposes longer prison sentences for people who commit "hate crimes," or crimes motivated by prejudice. Unless special circumstances exist, the Supreme Court puts the burden of proving a law unreasonable on the people challenging the law. Special circumstances arise when the Court decides that a state law involves a "suspect classification" or a "fundamental right."

Suspect Classifications When a classification is made on the basis of race or national origin, it is a suspect classification and "subject to strict judicial scrutiny." A law that requires African Americans but not whites to ride in the back of a bus would be a suspect classification.

When a law involves a suspect classification, the Court reverses the normal presumption of constitutionality. It is no longer enough for the state to show that the law is a reasonable way to handle a public problem. The state must show the Court that there is "some compelling public interest" to justify the law and its classifications.

 See the following footnoted materials in the Reference Handbook:
1. *Wisconsin v. Mitchell* case summary, page 768.

Fundamental Rights The third test the Court uses is that of fundamental rights, or rights that go to the heart of the American system or are indispensable in a just system. The Court gives a state law dealing with fundamental rights especially close scrutiny. The Court, for example, has ruled that the right to travel freely between the states, the right to vote, and First Amendment rights are fundamental. State laws that violate these fundamental rights are unconstitutional.

Proving Intent to Discriminate



Laws that classify people unreasonably are said to discriminate. Discrimination exists when individuals are treated unfairly solely because of their race, gender, ethnic group, age, physical disability, or religion. Such discrimination is illegal, but it may be difficult to prove.

What if a law does not classify people directly, but the effect of the law is to classify people? For example, suppose a law requires that job applicants at the police department take a test. Suppose members of one group usually score better on this test than members of another group. Can discrimination be proven simply by showing that the law has a different impact on people of different races, genders, or national origins?

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Showing Intent to Discriminate In *Washington v. Davis*¹ (1976) the Supreme Court ruled that to prove a state guilty of discrimination, one must prove that an intent to discriminate motivated the state's action. The case arose when two African Americans challenged the District of Columbia police department's requirement that all recruits pass a verbal ability test. They said the requirement was unconstitutional because more African Americans than whites failed the test.

The Court said that this result did not mean the test was unconstitutional. The crucial issue was that the test was not designed to discriminate. As the Court said in a later case, "The Fourteenth Amendment guarantees equal laws, not equal results."