

# Chapter Six

## Civil Rights

# What are civil rights?

- Protect certain groups against discrimination
- Claims are raised when a group is denied access to facilities, opportunities, or services available to other groups
- The issue is whether differences in treatment are reasonable

# Separate-But-Equal

- NAACP strategy went through a series of stages:
  - Step 1: obvious inequalities, addressed in 1938–1948 cases
  - Step 2: deciding that separation creates inequality in less obvious cases
  - Step 3: declaring that separation is inherently unequal - *Brown v. Board of Education*

# *Brown v. Board of Education*

- Unanimous Supreme Court opinion overturned *Plessy*
- Segregation is detrimental; creates sense of inferiority in African American students
- The Court relied on social science, because the Fourteenth Amendment was not necessarily intended to abolish segregated schools, and the Court sought a unanimous opinion

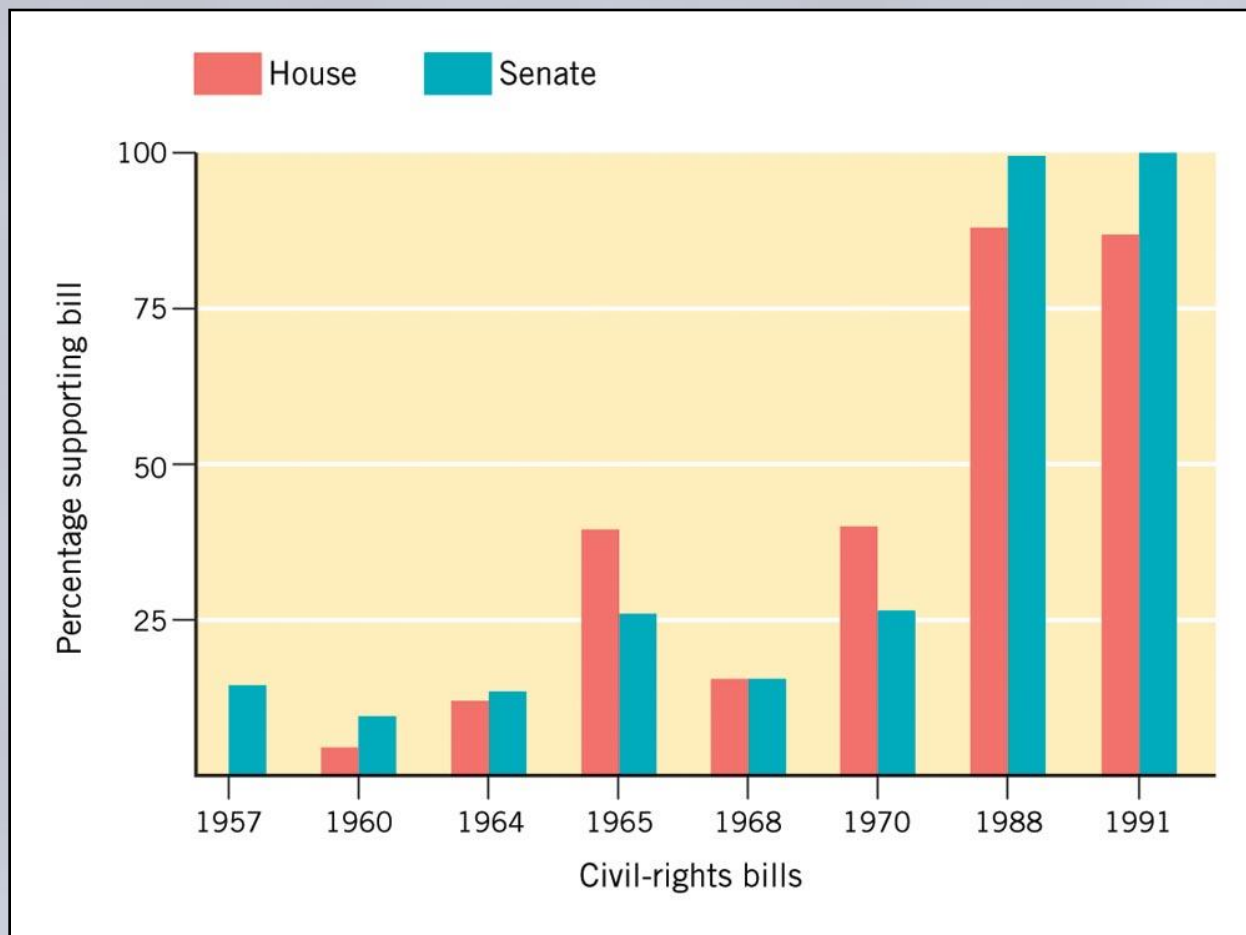
# Desegregation v. Integration

- *Swann v. Charlotte Mecklenburg* (1971): remedies may include racial quotas, redrawn district lines, and court-ordered busing
- Inter-city busing could be authorized only if both the city and the suburbs had practiced segregation
- Busing remains controversial

# The Campaign for Civil Rights

- Sit-ins and freedom rides, voter registration efforts
- Martin Luther King, Jr., Rosa Parks—  
Montgomery bus boycott
- From nonviolent civil disobedience to the  
“long, hot summers” of racial violence  
(1964–1968)

# Figure 6.2: Growing Support Among Southern Democrats in Congress for Civil Rights Bills



*Congressional Quarterly, Congress and the Nation, vols. 1, 2, 3, 7, 8.*

# Table 6.1: Increase in Number of Black Elected Officials

**Table 6.1** Increase in Number of Black Elected Officials

<b>Office</b>	<b>1970</b>	<b>1991</b>	<b>2001</b>
Congress and state legislatures	182	476	633
City and county offices	715	4,493	5,456
Judges and sheriffs	213	847	1,044
Boards of education	362	1,629	1,928
<b>Total</b>	<b>1,472</b>	<b>7,445</b>	<b>9,061</b>

*Sources: Statistical Abstract of the United States, 2003, Table 417.*



# Gender-Based Discrimination

- Reasonableness standard versus strict scrutiny
- Court chooses a blend—more than reasonable but not as much as strict scrutiny
- Some gender-based differences are allowed by courts

# Sexual Harassment

- **Quid pro quo:** sexual favors are required as a condition for holding a job or for promotion; employers are strictly liable
- **Hostile environment:** creating a setting in which harassment impairs a person's ability to work; employers are liable if they were negligent

# Privacy and Sex

- Regulating sexual matters is traditionally a state function, under the exercise of the police powers
- In 1965, Supreme Court held that states could not prevent the sale of contraceptives, because that violated the *zone of privacy*

# Abortion

- *Roe v. Wade*: struck down a Texas ban on abortion (and all similar state laws)
- Woman's freedom to choose is protected by the Fourteenth Amendment
- *Webster* (1989): The Court upheld some restrictions on abortions
- *Casey* decision (1992) does not overturn *Roe* but permits more restrictions: 24-hour wait, parental consent, pamphlets about alternatives

# Affirmative Action

- **Affirmative action:** preferential hiring and admission practices to remedy discrimination
- *Bakke* (1978): numerical minority quotas are not permissible, but race can be considered

# Affirmative Action

- *Adarand Constructors v. Peña* (1995)—any racial classification is subject to strict scrutiny
- *Gratz v. Bollinger* (2003) – overturned a University of Michigan admissions policy that gave “bonus points” to Black, Hispanic and Native American applicants to the undergraduate program
- *Grutter v. Bollinger* (2003) upheld a University of Michigan Law School admissions policy that used race as a “plus factor” but not as part of a numerical quota

# Gays and the Constitution

- *Bowers v. Hardwick* (1986): Georgia was allowed to ban homosexual sexual activity
- *Romer v. Evans* (1996): Colorado voters had adopted state constitutional amendment making it illegal to protect persons based on gay, lesbian or bisexual orientation; the Court overturns it
- *Lawrence v. Texas* (2003): The Court overturned a Texas law banning sexual conduct between persons of the same sex