The Fourteenth Amendment and the Pursuit of a More Perfect Union

Timothy Ready
Lewis Walker Institute for the Study of Race and Ethnic Relations, and Department of Sociology
Western Michigan University

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Sociology
What does it mean To be an American?

14th Amendment: What does it mean To be a citizen?
Reconstruction Amendments

13th Amendment– Abolition of Slavery

14th Amendment- (Five Sections)
   i. Defines rights and privileges of citizenship; Due Process and Equal Protection
   ii. Proportional representation
   iii. Bars insurrectionists from political office
   iv. Payment of Debt
   v. Enforcement of provisions of 14th Amendment by Congressional legislation

15th Amendment – Race and the Right to vote
The true spirit and meaning of the amendments . . . cannot be understood without keeping in view the history of the times when they were adopted, and the general objects they plainly sought to accomplish.

At the time when they were incorporated into the Constitution, it required little knowledge of human nature to anticipate that those who had long been regarded as an inferior and subject race would, when suddenly raised to the rank of citizenship, be looked upon with jealousy and positive dislike, and that State laws might be enacted or enforced to perpetuate the distinctions that had before existed. (Strauder v. West Virginia, 1880)
Section One of the 14th Amendment includes:

• Citizenship Clause
• State Action Clause
• Privileges and Immunities Clause
• Due Process Clause
• Equal Protection Clause
More litigation based on the 14th Amendment than any other part of the Constitution

**Due Process**
- (Life, Liberty, Property, “Penumbra”)
- Lochner v. New York (1905)
- Board of Regents v. Roth (1972)
- Griswold v. Connecticut (1965)
- Roe v. Wade (1973)
- Cleveland Board of Ed. v. Laudermill
- Mapp v. Ohio 1961

**Equal Protection**
- Plessy v. Ferguson (1896)
- Brown v. Board (1954)
- Loving v. Virginia (1967)
- Bakke (1978)
- Schutte v. Coalition to defend Affirmative Action (2014)
Individual and Group Rights

• Three tier approach to protected classes
  1. Ordinary review – “Rational Person” Analysis (eg, wealth; alienage)
     • Eg., Plyer v. Doe (1982) – the education of undocumented students
  2. Intermediate Review – (e.g., sex) Statute needed to meet “compelling state interest”
  3. Strict Scrutiny – race, color, national origin

• Changing criteria over time for defining protected groups, and the level of scrutiny required
Mass Incarceration and Due Process Issues

• The New Jim Crow argument
  • War on Drugs – Neutral on its face, but with disparate impact if not intentionally biased in its implementation
  • Stop and Frisk, New York and elsewhere
  • Racial disparities at every step in the criminal justice process
    • Traffic Stop studies – Kalamazoo example
    • Arrest, charges, conviction, sentencing disparities

• Ferguson, Missouri and other consent decrees

• James Foreman, Jr. “Locking Up Our Own.”
  • Change of philosophy from Fear and Vengeance to Love and Forgiveness

• Koch Brothers part of movement to reverse mass incarceration
The Growth of INCARCERATION in the United States

Exploring Causes and Consequences

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Are We Moving in the Right Direction?

• Based on data describing trends in wealth accumulation and in incarceration, we are NOT!
FIGURE 2-2  Incarceration rates per 100,000 population of European and selected common law countries.

NOTES: Rate estimates vary slightly from those of other sources for the United States. Year of reporting for the United States is 2012; years for other nations range from 2011 to 2013.

FIGURE 2-14 Prison and jail incarceration rates per 100,000 population for non-Hispanic whites, non-Hispanic blacks, and Hispanics, aged 18 to 64, 1972 to 2010.

NOTES: C = at least some college; HS = all noncollege men; DO = less than 12 years of completed schooling.

NOTES: C = at least some college; HS = completed high school or general equivalency diploma (GED); DO = no high school diploma or GED.

SOURCE: Data from Pettit et al. (2009, Table 37).
Racial, Ethnic Wealth Gaps Have Grown Since Great Recession

Median net worth of households, in 2013 dollars

Notes: Blacks and whites include only non-Hispanics. Hispanics are of any race. Chart scale is logarithmic; each gridline is ten times greater than the gridline below it. Great Recession began Dec. '07 and ended June '09.
Source: Pew Research Center tabulations of Survey of Consumer Finances public-use data

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The Limits of the 14th Amendment

• Done much to ensure due process in abridgement of life, liberty, property and “penumbra” rights (eg, privacy)

• The 14th Amendment has done much to ensure equal protection of constitutional rights for protected classes, especially racial and ethnic minorities...

• ...but we are not a social democracy with economic rights like many other countries

• The Amendment’s Equal Rights provisions are essential, but have not been sufficient to ensure continued progress toward racial equity.