I. The Black Predicament
   A. The issue of civil rights, or the freedoms and liberties that should be given to people no matter their race, ethnicity, lifestyles, or beliefs, has been around for hundreds of years.
      1. The questionable ways of classifying people are called suspect classifications and involve race, gender, and ethnicity.
   B. Even though they account for more than 12% of the nation’s population, blacks could not until recently vote, attend integrated schools, ride in front seats of buses, or buy homes in white neighborhoods in many parts of the country, basically because not enough people demanded that such rights for them be enforced, and many people (whites) felt threatened or detested blacks’ presence.
      1. In the Deep South, where black were the majority, the minority whites feared the competition for jobs, land, public service, and living space, and they were simply racist, and this led to many lynchings and violence against blacks.
      2. Not only were blacks oppressed, they either had no means to rise up against such oppression or organize to gain support.
      3. Little was done, despite public shock at such events because lynchings were local crimes (not federal) and most public attitudes were either apathetic or against black rights.
   C. At a political disadvantage, 1960s black civil rights protesters found that they would either have to gain new allies or move the policy-making arena to a place where the opposition was not as advantaged.
      1. Partly by accident and by plan, they followed both routes, publicizing their cause to many Americans and also carefully securing Congressional action in Congress and the federal courts.
      2. After initial successes (getting Blacks the right AND the means to vote), the civil rights movements turned from fundamental human rights to more of manpower development, economic progress, and the housing and neighborhood improvement.

II. The Campaign in the Courts
   A. The 14th Amendment, if read broadly, seemed to guarantee equal rights for all when it said that “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
      1. This could also permit some forms of segregation, though, as was later allowed w/ schooling.
      2. The Supreme Court said that it was illegal to have all-white juries, but that segregation in hotels was perfectly okay, and later, the case of Plessy v. Ferguson effectively legalized racial segregation with the “separate but equal” doctrine.
         a. The 14th Amendment required political and legal but NOT social equality.
   B. Three years after Plessy v. Ferguson, the Court applied this to schools as well.
      1. However, the National Association of the Advancement of Colored People was formed in 1909 in part to try to change the Court’s decision on this and advance black civil rights.
         a. W.E.B. DuBois was one of its leaders and the editor of the magazine The Crisis.
      2. Its strategy was to get the Court to declare unconstitutional laws that created schools that were separate and obviously unequal, then schools that were separate but not-so-obviously unequal, and then to declare that separate was NOT equal.
      3. In 1938, the Supreme Court ordered an all-white law school in Missouri to admit Lloyd Gaines because there was no other law school for Blacks in the area.
         a. For education to be equal, it had to be equally available.
      4. The second step was met in 1950 Meman Sweatt and George McLaurin were admitted to white schools but required to study in roped off sections of the colleges (2 separate cases), and the Supreme Court decided that these cases were unconstitutional.
      5. Finally, on May 17, 1954, in Brown v. Board of Education, Chief Justice Earl Warren declared that the “separate but equal” doctrine was inherently not equal and thus unconstitutional.
C. The Court left enforcement of desegregation up to the local federal courts, but the implementation of this proceeded at a snail’s pace in the South, with over 100 members of Congress signing a “Southern Manifesto” that called the decision an “abuse of judicial power” and vowed to reverse the ruling.
1. However, use of armed National Guard members eventually foiled resistance, and by 1970, only 14% of southern black schoolchildren still attended all-black schools.
2. To justify its ruling, the Supreme court relied on social science studies that indicated that segregation made blacks feel inferior and was detrimental, not on the Constitution!
   a. This is because the Court realized that the Founding Fathers may NOT have meant to say that segregation was wrong.
D. A new question arose: did schools simply have to allow enrollment to anyone, or did they have to MAKE their schools integrated and diverse?
1. De jure segregation (segregation by law) was definitely now illegal, but was de facto segregation (segregation by choice, as in predominantly black communities, etc…)?
2. In 1968, the Supreme Court declared a plan that allowed every pupil go to a school of his or her choice but still let all of the white children stay at the all-white school and 85% of the blacks choose to stay at the all-black school unconstitutional because it didn’t achieve the ultimate mean, which seemed to require actual mixing of races, not just its opportunity.

III. The Campaign in Congress
A. Here, the first problem was to convince the people that civil rights was needed and that something should be done, and it was solved by dramatizing the problem to pull at the consciences of whites (show violent lynchings or show confrontations b/t blacks and whites {i.e. protests and sit-ins} where the whites horribly treated the blacks {i.e. sprayed them with huge hoses}).
1. Blacks were also mobilized to register to vote to show their power at the polls.
2. Boycotts were especially effective, and Martin Luther King, Jr. led the first one after Rosa Parks had refused to give up her seat on a bus to a white man.
3. Early demonstrations were based on nonviolent civil disobedience (i.e. NO RIOTS).
   a. However, the growing anger of young blacks could not be controlled, and from 1964-68, there were summers of racial violence in the North and the South.
   b. Many whites said that such protests hurt the black cause more than it helped.
B. Slowly, though, support for integration (etc…) grew, despite House and Senate committees being dominated by Southern Democrats and conservative Republicans.
1. Violent reactions by whites to blacks, such as Eugene “Bull” Connor’s unleashing of police dogs and fire hoses on blacks were powerfully portrayed on TV, and protests like the "March on Washington" generated widespread publicity
C. The assassination of John. F. Kennedy shocked many people who thought it was for his liberal views, and in 1964, Northern Democrats were elected by the handful, giving the power to pass a strong civil rights bill that was passed during the term of Lyndon B. Johnson.
1. The passage of a 1964 act was the most far-reaching one of all, and it passed despite much resistance and an eight-week-long filibuster!!!
2. Nowadays, partly due to the growing political strength of blacks, few civil rights bills fail.
D. Civil rights also apply to crime (when lots of black drug dealers were arrested, blacks claimed discrimination and racial profiling, but the Supreme Court upended such a protest).

IV. Women and Equal Rights
A. In contrast to the Black Movement, which was against a policy that explicitly tried to subordinate them, the Women’s Movement was against a policy that supposedly protected them.
B. The women’s rights movement, which resurfaced after the black movement, gained much action from Congress, and gained many rights.
1. The Supreme Court has come up with two standards in deciding whether or not the Constitution bars all, some, or no sexual discrimination:
   a. The reasonableness standard says that some different treatment is reasonable and not arbitrary (i.e. applying statutory rape laws to men but not women).
b. The **strict scrutiny standard** says that some methods of drawing distinctions between
groups (i.e. treating blacks and whites differently) are inherently suspect and bad.
   For the women’s movement, the standard was somewhere between the two.
C. The Court has also ruled sexual discrimination to be illegal in government AND private action.
D. Here’s more illegal discrimination:
   1. A state cannot set different ages for men and women to become adults or buy beer, nor can
      women be barred from jobs by certain height and weight requirements.
   2. Mandatory pregnancy leaves are illegal; girls cannot be barred from Little League baseball;
      business and service clubs cannot bare women from membership; employers must pay monthly
      retirement benefits to men and women equally; and high schools must pay women coaches the
      same amount they pay male coaches.
E. Differences based on sex that are okay:
   1. Since men and women are not “similarly suited” with respect to sexual relations, females don’t
      have to be punished for statutory rape; all-boy/girl schools are okay; states can give property
      tax exemptions to widows but not widowers; women can be navy officers longer than men w/o
      being promoted.
F. In 1996, the Court ruled that women could be admitted to **Virginia Military Institute**.
G. The case of **Rostker v. Goldberg** ruled that women can be exempt from the draft, but not men.
H. The **Equal Rights Amendment** at first seemed sure to pass, as it sailed through the House and
   Congress and many initial states easily ratified, but it soon stalled and some states rescinded their
   ratifications.
   1. Eventually, time expired (even after an extension) and it failed.
   2. Since over ¾ of the legislatures had to approve, the odds were against it that it would pass,
      and since it was controversial AND many women themselves opposed it, many legislatures were
      reluctant to take a stand on this issue.
      a. Issues: Women = open to being drafted? No more max hours limits? Etc...
I. **Abortion** quickly became a flaming hot topic, but in 1973, the case of **Roe v. Wade** essentially
   legalized abortion for everyone, no matter what the consequences (except during the third
   trimester).
   1. Critics of the ruling maintained that life began at conception, and these anti-abortionists
      became “pro-life” while their opponents were “pro-choice.”
   2. The **Hyde Amendment** barred the use of federal funds for abortion, unless the life of the
      mother was at stake.
   3. **Roe v. Wade** has been affirmed ever since it was ruled upon, and new federal judge
      appointments have not even nullified it.
V. Women and the Economy
   A. There have long been two groups of feminists: those who want total equal rights (and wanted the
      ERA to pass as the ultimate victory) and those who feel that the economic status of women was
      more important than the ERA, since its effects are more immediate.
   B. It’s illegal to discriminate at work based on sex, but many women are still paid lower than men, and
      single pregnant women sometimes must quit their jobs because there are no maternity leave
      provisions.
      1. Women’s groups have lobbied for **government-funded day care** (acted upon in 1984) that
         would allow working women to work easily, **child support enforcement** (passed in 1988 as
         part of a larger welfare plan) that would withhold paychecks of men and women who didn’t pay
         child support, **pregnancy leave** that would guarantee a women’s job to stay when she left to
         give birth, and **comparative worth** that would pay men and women equally for equal work.
      2. This comparative worth issue is most controversial, since there can be men who are plumbers
         who earn more than equally paid female nurses.
         a. “Worth” is measured by experts who rank jobs based on difficulty.
         b. Neither the Supreme Court nor Congress has definitely spoken on this question.
VI. Affirmative Action

A. To ensure that a school or a job actually has mixes of different races and genders, **affirmative action** can be used to get more minorities into the desired place.
   1. This has been used lately to make every institution reflect the cultural/ethnical diversity of the nation, even at the sacrifice of job/school quality.

B. To give blacks and women preferential treatment over other groups like whites is also wrong, a concept called **reverse discrimination** that has been used by whites to upend blacks.
   1. It's basically against affirmative action and simply wants optional, not forced diversification.
   2. These people want equality of opportunity.

C. The “target” or “quota” system can be used to get a certain number of people (women, blacks, etc...) into a position in whatever institution.
   1. The Supreme Court has made many conflicting decisions over affirmative action, sometimes favoring it and sometimes not.
   2. A few standards have seemed to emerge:
      a. Quota systems are subject to “strict scrutiny” and must have “justification.”
      b. Quotas can't be used unless it's shown that they're needed to fix a discrimination.
      c. Actual practices of discrimination must actually be identified and verified.
      d. Quotas that are created by federal law will be given greater deference.
      e. It may be easier to justify a voluntary preference system than a law-ordered one.
      f. Special preferences can be given to hiring workers, but not to laying them off.

D. There is **compensatory action** that can help disadvantaged people catch up, usually by giving them extra education, training, or services... that many people also support.
   1. Polls say that if affirmative action is defined as “helping” people, the public will like it, but if it’s defined by “suing quotas,” the public will oppose it, generally.
   2. One of the most important recent Supreme Court decision on this regards a small construction company named Adarand that lost a bid to build guard rails along Colorado highways because it did not have enough minorities, but the Court sent it back to Colorado for a new trial.

E. Any racial discrimination must be subject to strict scrutiny, even if it's supposed to **help**, not hurt, and this means it must serve a compelling gov't interest and be narrowly tailored and to serve that interest.

VII. Gays and the Supreme Court

A. The Supreme Court decided by a 5-4 vote that there was no constitutional reason to prevent a state from passing a law that barred homosexual relations/actions b/t two consenting people.

B. Oddly, a state can pass a laws banning homosexual activities, but it cannot pass a law preventing the cities within that state from reversing that ban.

C. The situation for civil rights for homosexuals remains unclear; in 1993, President **Bill Clinton** instituted the policy of “don’t ask, don’t tell” in the military, and the Supreme Court has yet to speak authoritatively on that subject.