What are civil rights?

A civil right is an enforceable right or privilege, which if interfered with by another gives rise to an action for injury. Examples of civil rights are freedom of speech, press, and assembly; the right to vote; freedom from involuntary servitude; and the right to equality in public places. In simple terms, everyone has rights determined by the laws of the government under which s/he lives. Different governments have different laws. The rights granted by the laws of the government should be shared equally by all citizens and should be enforced by that government—at least according to law. What is legal versus what is reality can be different. (Atekpatzin, 2015)

How are civil rights different from human rights?

Human rights are generally regarded as those undeniable rights that every human being deserves upon being born into this world. Human rights include the right to life, to make a life for oneself, to food, to housing, to proper healthcare, to freedom of thought, opinion, religion & religious practices, and to choose the company s/he keeps. The Universal Declaration of Human Rights adopted by the United Nations in 1948 is more specific in what are considered to be universal human rights (U.N. Universal Declaration of Human Rights). Whereas human rights are rights we are theoretically born with, civil rights are the rights granted to us by the government of the land upon which we are born or of which we become a citizen.

Why are civil rights laws enacted?

Civil rights laws are enacted to redress (remedy or set right) policies or customs that injure particular groups or classes solely because of their membership in a particular group or class. Discrimination occurs when the civil rights of an individual are denied or interfered with because of his membership in a particular group or class. Various jurisdictions in the United States have enacted statutes to prevent discrimination based on a person's race, sex, religion, age, previous condition of servitude, physical limitation, national origin, and in some instances sexual orientation. (Atekpatzin, 2015)

What were the events that set the stage for the inequality of rights or privileges?

The need for civil rights legislations in the United States can be traced back to the moment that Columbus washed ashore in 1492. Since then, decisions have continuously been made about governance, economics, and the relationships between white colonists, Indigenous inhabitants of the Americas (Indians), and black African slaves. Because of the decisions made, some people (mostly white, Anglo-Saxon, Protestant, heterosexual males) have been more privileged while others like Indigenous communities, African descendants, Chinese, Japanese, other people of color, women, non-Christians and those
that are gender different (lesbian, gay, transgendered, inter-sexed) have been less privileged and discriminated against. (Atekpatzin, 2015)

The laws that determined who had rights and who did not have rights became the province of the perceived ultimate authority (Pope in Rome) following the Crusades. The Christian Churches, first the Catholic Church and later the Protestant Church asserted that they were the ultimate authorities at the time that Columbus washed ashore in the Bahamas. (Atekpatzin, 2015)

In 1436, the Pope issued the bull *Romanus Pontifex*, exclaiming that all Christian monarchs are united under the Catholic Church and thereby ruled by Catholic law therefore wherever these monarchs might travel and encounter “sheep” that they might “bring into fold” granted them right of conquest under *natural law* as proclaimed by Pope Innocent IV. (Getches, 2005)

Various popes of the Catholic Church decreed, through papal bulls, that White Christians had privileges or civil rights, while, Black Africans, Brown Peoples of the Americas, followers of Islam, Jews, and other non-Christians did not share the same civil rights. Canon law or Christian law declared that non-Christians could be killed, enslaved, tortured, raped and have any and all of their property stolen and sold by Christians. Anything was permissible as long as a portion of the stolen riches were shared with the Catholic Church.

With the invasion of the Christians on the shores of the Americas operating under the “authority” of the Papal Bulls, i.e. the Doctrine of Discovery, a new *relationship of power* was introduced that changed the dynamics of how the Indigenous populations of the Americas were perceived by both the invaders and the invaded. Identity came to be formed by this relationship of power . . . When identity factored into the equation, as regards the Christian invaders, it gave [the Christians] an advantage because they shared a common identity and motivation which they utilized as both a rallying point and to begin to construct an identity for the Indigenous populations of the Americas thereby changing the dynamics into an advantageous *relationship of violence* (Atekpatzin, 2010)

The behavior of the invading colonists in the Americas (and around the world) have been rooted in Catholic/Christian law.

These doctrines all originate in the medieval crusading era legal tradition of Christian European cultural racism and discrimination against non-Christian, normatively divergent peoples, carried to the New World by Columbus and those Europeans who followed him. Because of their lack of familiarity with the racist origins of the core doctrines of modern
federal Indian law, most practitioners and students do not realize that every time the current Supreme Court cites to any of the core principles to uphold one of its Indian law decisions, it perpetuates and extends the racist legacy brought by Columbus to the New World of the use of law as an instrument of racial domination and discrimination against indigenous tribal peoples’ rights of self-determination. (Williams, 1992)

Civil rights legislation is an attempt to remedy the inequality of Christian laws that were adopted by the men that wrote the first laws that continue to govern citizens of the United States.

**What is the Doctrine of Discovery?**

June 18, 1452 Pope Nicholas V signed into international law the papal bull, *Dum Diversas* which was responsible for "ushering in the West African slave trade" granting the Kings of Castile and Portugal “…by these present documents, with our Apostolic Authority, full and free permission to invade, search out, capture, and subjugate the Saracens and pagans and any other unbelievers and enemies of Christ wherever they may be, as well as their kingdoms, duchies, counties, principalities, and other property [...] and to reduce their persons into perpetual slavery” (Atekpatzin, 2010)

January 8, 1454, Nicholas V signed a second bull *Romanus Pontifex* which granted these kingdoms the right “to invade, search out, capture, vanquish, and subdue all Saracens and pagans whatsoever, and other enemies of Christ wheresoever placed, and the kingdoms, dukedoms, principalities, dominions, possessions, and all movable and immovable goods whatsoever held and possessed by them and to reduce their persons to perpetual slavery, and to apply and appropriate to himself and his successors the kingdoms, dukedoms, counties, principalities, dominions, possessions, and goods, and to convert them to his and their use and profit” (Atekpatzin, 2010)

1456 Pope Calixtus III reiterated the bull with *Etsi cuncti*, renewed by Pope Sixtus IV in 1481.

1514, Pope Leo X also reiterated the bull with *Precelse denotionis*.

1493, after Columbus washed ashore the Bahamas, three new bulls were issued on May 3rd and 4th by Pope Alexander VI called *Inter caetera Divinae* which became a major document in the development of subsequent legal doctrines regarding claims of empire in the ‘new world.’ The *Inter caetera Divinae* assigned to Castile the exclusive right to acquire territory, to trade in, or even to approach the lands lying west of the meridian situated one hundred leagues west of the Azores and Cape Verde Islands. An exception was made, however, for any lands actually possessed by any other Christian prince beyond this meridian prior to Christmas, 1492. The bull stated “…especially the Catholic faith and the Christian religion be exalted and be everywhere increased and
spread, that the health of souls be cared for and that barbarous nations be overthrown and brought to the faith itself…do by tenor of these presents, should any of said islands have been found by your envoys and captains, give, grant, and assign to you and your heirs and successors, kings of Castile and Leon, forever, together with all their dominions, cities, camps, places, and villages, and all rights, jurisdictions, and appurtenances, all islands and mainlands found and to be found, discovered and to be discovered towards the west and south, by drawing and establishing a line from the Arctic pole, namely the north, to the Antarctic pole, namely the south . . .” (Atekpatzin, 2010)

The British Crown as it began to settle the Americas had its own interpretation of the Doctrine of Discovery since, as an independent Protestant community, it had freed itself of papal regulation. Protestants are not Catholics so they had to write their own laws. The “Norman Yoke” asserted that if an owner demonstrated a willingness and ability to “develop” his property in accordance with scriptural obligation thereby exercising “dominion” over nature, then, he had legal claim to land title post discovery. An individual was granted the right to claim land which he could transform from “wilderness” to a “domesticated” state. This gave English settlers an inherent right to dispossess (steal) land from Indigenous peoples of the Americas so that it might be cultivated. Moreover, this gave the Protestant Crown legal standing to take land from other monarchies that failed to cultivate the land they claimed (Churchill 2003, 4).

These laws passed by the Catholic Church and the Church of England are now referred to as the “Doctrine of Discovery.” All laws in the United States are founded on the laws of these Christian churches. Utilizing Christian law to further capitalist ventures, new laws were passed.

**That was the Headright System?**

1618, the headright system was introduced as a means to solve a labor shortage. The early inhabitants of Jamestown were employees of the Virginia Company and were supposed to direct their labors toward the production of profits for the investors. There was no gold or silver to be mined for the Virginia Company but they developed a tobacco economy in Britain. Growing tobacco required large tracts of land. Through the corrupt use of the headright system, the company and a number of early settlers were able to acquire large tracts of land. This gave white settlers an advantage over blacks, Indigenous peoples from whom the land was stolen and later immigrants to the colonies and later called the United States. (Harrison, 1925; Muhammad, 2015)

The headright system provided the following:

- Colonists already residing in Virginia were granted two headrights, meaning two tracts of 50 acres each, or a total of 100 acres of land.
- New settlers who paid their own passage to Virginia were granted one headright. Since every person who entered the colony received a headright, families were
encouraged to migrate together.

- Wealthy individuals could accumulate headrights by paying for the passage of poor individuals, about $215 today. Most of the workers who entered Virginia under this arrangement became indentured servants—people who paid for their transportation by working five to seven years for the landowner (much like coyotes of today).

The ability to amass large plots of land by importing workers provided the basis for an emerging white aristocracy in Virginia. Plantation owners also claimed headrights for newly imported slaves but kept the land and never freed the slaves. (Atekpatzin, 2015)

**How did Christian law become Constitutional Law?**

In 1823, Chief Justice Marshall of the Supreme Court of the United States attempted to validate the U.S. Constitution as a legal document, in *Johnson v. McIntosh*, and constructed how and why the United States could assert its right to acquisition and title of Indian land by purchase, conquest or treaty because of the doctrine of discovery. He opined that as the progeny of the Protestant Crown, the United States inherited the right of title and right of occupancy vis-à-vis the laws under which the European crowns had been operating. As King George III of England quitclaimed the land east of the Mississippi in the *Treaty of Paris*, the Americans surmised that the right of ownership beyond the 1763 proclamation line passed to the United States (Churchill 2003, 6-7).

1831 *Cherokee Nation v. Georgia*, Chief Justice Marshall, having now established the validity of U.S. governance and right to occupancy, addressed the relationship of the United States to Indian nations. Marshall, at this point, very effectively begins to erode Indian sovereignty by declaring that Indian nations, by virtue of treaty signing, become “dependent and domestic nations” that become the “trust” responsibility of the United States. In its capacity as “guardian,” Indian nations must look to the United States “for protection, rely upon its kindness and its power; appeal to it for relief to their wants and address the president as their great father” (Getches et al. 2005, 105). To this date, Indian “nations” do not own the land they claim, it remains the property of the United States.

**What laws have been passed in an attempt to restore civil rights?**

Many laws have been passed since 1776 addressing civil rights issues in an attempt to change the paradigm of discrimination and inequality. The civil rights laws are an attempt to right the wrongs of historical injustice but have failed to fully restore rights denied through Canon Law.

There are three primary documents that make up the laws we regard as constitutional law in the United States. These documents are the Declaration of Independence, the Constitution of the United States, and the Bill of Rights. In addition, “Acts” are written by Congress to make changes to constitutional law and the decisions of the Supreme Court on the court cases that they chose to hear affect constitutional law. Supreme Court
decisions and laws enacted by congress always reflect the political climate (usually conservative climate) at the time of their making. (Atekpatzin, 2015)

**What is the timeline of civil rights laws?**

1776—Declaration of Independence, "We hold these truths to be self-evident, that all men are created equal, that among these are Life, Liberty, and the pursuit of happiness."

**What are the Bill of Rights?**

The first ten amendments (changes) to the United States Constitution are called the Bill of Rights. The Bill of Rights limit the power of the federal government and guarantee citizens of the United States certain rights. The amendments were written by James Madison in 1789. Unjustly, the laws as adopted were only applicable to white citizens. The injustices was (theoretically/legally) changed with the addition of the 13th amendment which allowed the inclusion of African American males. However, the 13th Amendment specifically excluded Chinese citizens and American Indians.

The Bill of Rights is written in broad language that appears to exclude no one, but in fact, it was never intended to protect all the people living on U.S. territory. Women were second-class citizens, essentially the property of their husbands, unable even to vote until 1920, when the 19th Amendment was passed and ratified. American Indians were entirely outside the constitutional system, defined as an alien people in their own land. American Indians were governed not by ordinary American laws, but by federal treaties and statutes that stripped tribes of most of their land and much of their autonomy. The Bill of Rights was in force for nearly 135 years before Congress granted American Indians U.S. citizenship.

The Constitution is remarkable, but deeply flawed. For one thing, it does not include a specific declaration - or bill - of individual rights. It specified what the government could do but did not say what it could not do. And, it did not apply to everyone. The "consent of the governed" meant propertied white men only (white men that owned property stolen from Indian people).

**What are the amendments to the Bill of Rights?**

Bill of Rights enacted-September 25, 1789-December 15,1791

The Emancipation Proclamation-January 1, 1863

After the Civil War began in 1861, President Abraham Lincoln recognized that slavery gave the south an unfair economic advantage. On September 22, 1862, Lincoln issued a preliminary Emancipation Proclamation, stating that as of January 1, 1863, all slaves in
the rebellious states “shall be then, thenceforward, and forever free.” Lincoln and the Republican Party recognized that the Emancipation Proclamation had no constitutional weight once the war was over. The legal framework of slavery would still exist in the former Confederate states as well as in the Union slave states that had been exempted from the proclamation. Even though the Emancipation Proclamation did not free any slaves, it was a significant turning point in the war. This proclamation transformed the focus of the Civil War from establishing the seat of power (North versus South) to an economic war under the guise of human freedom.

(https://www.history.com/topics/american-civil-war/emancipation-proclamation, Atekpatzin, 2015)

What is the Thirteenth Amendment?

Amendment 13: Passed by Congress January 31, 1865, and ratified December 6, 1865.

“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation.”

Slavery itself, and the usage of slaves, was officially abolished legally making a significant change to an old Catholic law that benefited capitalism. One part of the first sentence in this amendment explains that anyone who is being punished after the commitment of a crime will be subject to servitude. As a consequence the Prison Industrial Complex has benefitted immensely from the labor of prisoners—a forced servitude. Slavery and servitude is otherwise banned in all parts of the country, even in local communities.

What is the Fourteenth Amendment?

Amendment 14: Passed by Congress June 13, 1866, and ratified July 9, 1868. (Due Process Clause/Equal Protection)

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.”

What is the Fifteenth Amendment?
Amendment 15: Passed by Congress February 26, 1870, and ratified February 3, 1870. (Black Suffrage)

“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. No citizens should be denied to vote based on their race, skin color, or condition of servitude.”

Black men were legally granted the right to vote, whereas, woman were not. American Indians were not allowed to vote because they were not regarded as citizens of the United States. The election of President Ulysses S. Grant convinced a majority of Republicans of the importance to protect the black voters franchise.

**What is the Nineteenth Amendment?**

Amendment 19: Passed by Congress June 4 1919, and ratified August 18, 1920. (Women Can Vote)

“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.”

Until the passage of Amendment 19, women in the United States were not permitted to cast their votes. Passage of the amendment changed the injustice.

**What Acts did congress pass to promote civil rights?**

Civil Rights Act of 1866—"all persons shall have the same rights...to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws..."

1924 Indian Citizenship Act—American Indians held an unjust status under federal law. Indian women acquired citizenship by marrying white men. “Others received citizenship through military service, by receipt of allotments, or through special treaties or special statutes.” On June 2, 1924, Congress passed a law granting citizenship to all American Indians born in the United States. The U.S. government belief that American Indians had finally, fully assimilated and deserved to be citizens prompted the change.

Indian Reorganization Act—1934, returned the right of self-governance back to the tribes.


Civil Rights Act of 1964—Title VII prohibits employment discrimination based on race, sex, national origin, or religion. Title VI prohibits public access discrimination, leading to school desegregation. Title VIII is the original "federal fair housing law," later amended
in 1988.

1965 Executive Order 11246—affirmative action requirements of government contractors and subcontractors.

1967 ADEA—prohibits age discrimination for 40-65 year olds, amended in 1986 to remove the 65 year old age cap.

Architectural Barriers Act of 1968—requires accessibility for disabled in buildings and facilities financed with federal funds.

§504 of the Rehab Act of 1973—bars federal contractors or subcontractors from employment discrimination on the basis of disability.


Air Carriers Access Act of 1989—disabled access required in construction of terminal facilities owned or operated by an air carrier.


Civil Rights Act of 1991—adds provisions to Title VII protections, including right to jury trial.

What other laws impact civil rights?

1848—Treaty of Guadalupe Hidalgo, granted rights to the residents of the territory taken from Mexico.

Do the Civil Rights laws work?

The laws have been selective in who they were intended to protect. For example, the Declaration of Independence states that “all men are created equal” but did not regard black men as fully human and women were still regarded as property of men.

The 13th Amendment abolished slavery but did not give non-whites equality.

The Civil Rights Act of 1866 gave the same rights to all persons except American Indians (who were not considered U.S. citizens).
The 14th Amendment provided equal protection of the laws for anyone born in the United States except Chinese descendants and American Indians and women.

The 19th Amendment granted voting rights to women but not to Black men/women or American Indians who were still not American citizens.

Is there still a need for civil rights?

The inequality of privileges continues through today. The result is continued racism, sexism, heterosexism, nationalism and bigotry against non-Christians. Despite legislative attempts to do away with discrimination and bigotry that perpetuates privileges for a white, male dominated, hetero-normative paradigm, there is a continued exclusion of people of color, women, the queer community and immigrants of color from accessing the same complete privileges as white males in the United States.

Unfortunately, white men have adapted quickly to the legislative changes, utilizing the same laws and language to further their agenda, continue their privilege and disadvantage people of color, women, and especially the descendants of the original inhabitants of the Americans (Indigenous people who may presently self-identify as Latino, Mexican, Hispanic, Mestizo or Chicano).

Despite the passage of civil rights legislation, racism persists just as pervasively as before. Women continue to receive less pay for work as men and women continue to experience high rates of violence from men in the form of rape, physical and emotional abuse, domestic violence, human trafficking and sexual exploitation. Native women in the United States, Canada, Mexico and other Spanish/Portuguese speaking countries experience the highest rates of violence in comparison to any other racial category of women. (Atekpatzin, 2015)

Because Indian bodies are 'dirty,' they are considered sexually violable and 'rapable,' and the rape of bodies that are considered inherently impure or dirty does not count. For instance, prostitutes are almost never believed when they say they have been raped because the dominant society considers the bodies of sex workers undeserving of integrity and violable at all times. Similarly, the history of mutilation of Indian bodies both living and dead, makes it clear that Indian people are not entitled to bodily integrity. (Smith, 2005)

In education, Black and Latino students are less likely to finish high school, less likely to attend college and less likely to graduate when they get there. This means they are less likely to acquire jobs that pay enough money to move them out of poverty. Because of racism, even for college graduates, people of color are less likely to be hired. Black college graduates are two times more likely to be unemployed and Brown college
graduates are two-thirds as likely to be unemployed. The Econ departments of MIT and the University of Chicago did studies that found that white names are 50% more likely to be called for interview than names that sound Black or Spanish.

When applying for loans for cars or homes, people of color are less likely to get the loan and if they do get the loan, they are more likely to pay higher interest rates.

Healthcare continues to be an area of disparity. One third to one half of People of Color remain uninsured. The insurance that they do acquire is often times more expensive and pays for fewer services. Poverty plays a significant role in the quality of food consumed by People of Color resulting in a lower quality of health, high rates of diabetes, heart disease and cancer. The rates of alcoholism and drug use are higher and more detrimental in Communities of Color. People of color have a shorter lifespan.

Rates of crime in neighborhoods that are predominantly Black or Latino are higher. Blacks and Latinos are twice as likely to be stopped even though whites are four times more likely to have drugs on them. Blacks and Latinos are more likely to be arrested, convicted and jailed and more likely to be beaten, shot and killed by police officers.

If you ask people, they will tell you that things have changed and that there is less racism and discrimination today as compared to before. If you look at the numbers, nothing has changed despite the many laws that have been written to remedy old ways of excluding people of color, women, and gender different people and communities. (Atekpatzin, 2015).

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