

Impact of the Civil Rights Movement on American Policies, Laws and Procedures Document 1-3

Background on the Civil Rights Act of 1964

CIVIL RIGHTS ACT OF 1964

The Civil Rights Act of 1964 exemplifies how various categories of law interact. As [statutory law](#), the act forbade gender-based discrimination in the employment arena:

§ 703. (a) It shall be an unlawful employment practice for an employer—
(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.⁷⁴

The [courts](#) broadened the scope of the law when interpreting the statutory language. For instance, the U.S. Court of Appeals for the Eleventh Circuit introduced the concept of “hostile environment” as a criterion to be used to determine whether or not the law has been violated:

Since the Guidelines were issued, courts have uniformly held, and we agree, that a plaintiff may establish a violation of *Title VII* by proving that discrimination based on sex has created a hostile or abusive work environment. As the Court of Appeals for the Eleventh Circuit wrote in *Henson v. Dundee*, 682 F.2d 897, 902 (1982): “Sexual harassment which creates a hostile or offensive environment for members of one sex is every bit the arbitrary barrier to sexual equality at the workplace that racial harassment is to racial equality. Surely, a requirement that a man or woman run a gauntlet of sexual abuse in return for the privilege of being allowed to work and make a living can be as demeaning and disconcerting as the harshest of racial epithets.”

Accord, *Katz v. Dole*, 709 F.2d 251, 254-255 (CA4 1983); *Bundy v. Jackson*, 205 U.S.App.D.C., at 444-454, 641 F.2d, at 934-944; *Zabkowitz v. West Bend Co.*, 589 F.Supp. 780 (ED Wis.1984).⁷⁵

As the number of court cases and judicial precedents increased, the body of common law grew and expanded the concept that originated from Title VII of the Civil Rights Act of 1964.

In accordance with legislative language and judicial interpretations, various [administrative agencies](#) further delineated the statute by implementing affirmative-action programs with guidelines that were applicable only to a specific agency, thus creating a body of regulatory law. An example from the Department of Justice:

Subpart A—Equal Employment Opportunity within the Department of Justice

AUTHORITY: 5 *U.S.C.* 301, 28 *U.S.C.* 509, 510; E.O. 11246, 3 *CFR* 1964-1965 Comp., p. 339; E.O. 11478, 3 *CFR* 1966-1970 Comp., p. 803.

§ 42.1 Policy

(a) It is the policy of the Department of Justice to seek to eliminate discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, marital status, political affiliation, age, or physical or mental handicap in employment within the Department and to assure equal employment opportunity for all employees and applicants for employment.

(b) No person shall be subject to retaliation for opposing any practice prohibited by the above policy or for participating in any stage of administrative or judicial proceedings related to this policy. [Order No. 2037-96, 61 *FR* 34730, July 3, 1996; 61 *FR* 43119, Aug. 20, 1996.]⁷⁶

When you try to locate law concerning a specific aspect of the Civil Rights Act, it is important to review all of these sources to understand fully the issue.

Often, in order to learn why a law was enacted or how the law is intended to apply, you must also review the [legislative history](#) documents promulgated during the consideration of the passage of the law. These include U.S. House of Representatives and Senate bills, congressional committee reports, hearings transcripts, and the *Congressional Record* of debates.⁷⁷ Using the Civil Rights Act of 1964 as an example, we can look at the fact that the *Congressional Record* reports that an amendment adding women to the protected class was offered by Congressman Howard Smith of Virginia during floor debate.⁷⁸

Amendment offered by Mr. Smith of Virginia: On page 68, line 23, after the word “religion,” insert the word “sex”. . . .

Now, I am very serious about this amendment. It has been offered several times before, but it was offered at inappropriate places in the bill. Now, this is the appropriate place for this amendment to come in. I do not think it can do any harm to this legislation; maybe it can do some good. I think it will do some good for the minority sex.⁷⁹

Although women have worked outside the home since the beginnings of this country, they did not possess the legal right to challenge inequities in the workplace. When women gained legal equality in the workplace, federal statutory law created rights and remedies based on which women could file suit against an employer or potential employer for employment discrimination.

Legal history shows that women have not always possessed this right by either federal or state law, resulting in there being few remedies available to them in court. Nevertheless many suits have been filed. Often these were dismissed “for lack of a cause of action” because of the grounds on which they were brought. Nineteenth-century women filed suits against discrimination based on the Fourteenth Amendment's privileges and immunities clause and failed to win favorable results. Today, women file suits based on the Fourteenth Amendment's equal protection clause and on the Civil Rights Act of 1964, Title VII, and win favorable decisions. As a result, a considerable body of precedent has been set in the courts, giving women the rights and remedies they need to enforce equal treatment in employment settings.

<http://memory.loc.gov/ammem/awhhtml/awlaw3/civil.html>