

Equality Under the Constitution: Reclaiming the Fourteenth Amendment

By Michael Klarman

The Fourteenth Amendment to the United States Constitution guarantees equal protection under the law. But what does that mean? And how has it been interpreted by the Supreme Court over the years?



Equality under the Constitution: Reclaiming the Fourteenth Amendment by Judith A. Baer

★★★★☆ 4.2 out of 5

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In his new book, *Equality Under the Constitution: Reclaiming the Fourteenth Amendment*, Professor Michael Klarman argues that the Fourteenth Amendment has been undermined by a series of Supreme Court decisions that have allowed states to discriminate against minorities.

Klarman shows how the Court has misinterpreted the Amendment's history and its purpose, and he offers a new interpretation that would restore the Fourteenth Amendment to its rightful place as a bulwark against discrimination.

The History of the Fourteenth Amendment

The Fourteenth Amendment was adopted in 1868, shortly after the end of the Civil War. The Amendment was intended to guarantee the civil rights of African Americans who had been freed from slavery.

The Amendment's Equal Protection Clause states that "no state shall ... deny to any person within its jurisdiction the equal protection of the laws."

In the years following the adoption of the Fourteenth Amendment, the Supreme Court issued a series of decisions that upheld the constitutionality of laws that discriminated against African Americans. These decisions included the infamous *Plessy v. Ferguson* decision, which held that the "separate but equal" doctrine was constitutional.

The Supreme Court's Retreat from Equal Protection

In the mid-20th century, the Supreme Court began to move away from its previous support for discrimination. In a series of landmark decisions, the Court held that states could not discriminate against African Americans in education, voting, and other areas of public life.

However, in recent years, the Supreme Court has taken a more conservative turn. The Court has issued a number of decisions that have weakened the Equal Protection Clause and allowed states to discriminate against minorities.

For example, in the 2007 case of *Parents Involved in Community Schools v. Seattle School District No. 1*, the Court upheld a school district's race-conscious admissions policy. However, the Court also held that the school

district must use the least restrictive means possible to achieve its diversity goals.

In the 2013 case of *Shelby County v. Holder*, the Court struck down a key provision of the Voting Rights Act of 1965. The Court held that the provision was no longer necessary because the South had made significant progress in eliminating racial discrimination in voting.

Professor Klarman's New Interpretation of the Fourteenth Amendment

In his book, Professor Klarman argues that the Supreme Court has misinterpreted the Fourteenth Amendment's history and its purpose. Klarman shows that the Amendment was intended to guarantee the civil rights of all Americans, not just African Americans.

Klarman also argues that the Court has failed to take into account the changing nature of discrimination. He shows that discrimination against minorities is often more subtle and sophisticated than it was in the past.

Klarman offers a new interpretation of the Fourteenth Amendment that would restore the Amendment to its rightful place as a bulwark against discrimination. Klarman's interpretation would require states to prove that any discrimination they engage in is necessary to achieve a compelling government interest.

Professor Klarman's book is a timely and important contribution to the debate over the Fourteenth Amendment. Klarman's new interpretation of the Amendment would strengthen the Equal Protection Clause and make it more difficult for states to discriminate against minorities.

Equality Under the Constitution is a must-read for anyone who is interested in the history of the Fourteenth Amendment, the Supreme Court's interpretation of the Amendment, or the future of civil rights in the United States.

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