

## DO WE NEED A BILL OF RIGHTS?

Mot: Rexo material on violations of the Bill of Rights

1. Could this scenario happen?
2. Are we protected against these violations of our rights?  
How? Where?

### TO AIM

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Pass out the Bill of Rights and 14th and 15th Amendments (Rexo)

1. How were the rights in the motivation violated? Be specific.
2. How important are these rights?
3. Why did many Americans refuse to ratify the Constitution until they were included? Were they right?
4. Some Americans feel that parts of the 5th Amendment ("Double Jeopardy" and "Self-Incrimination") are not important. Do you agree?  
(What does it mean to be a witness against yourself? Is this important?)
5. Are there situations in which there should be restrictions on these rights?
  - Can you yell "fire" in a crowded movie theater?
  - Can the KKK march peacefully through Harlem?

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Pass out rexo of 7 actual cases (use some of them)

1. What was the issue in each case?
2. How do you think the Court ruled?
3. Are any individual rights being threatened?
4. Are the rights of society being threatened?
5. Which of the two should take precedent?

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A. Schenck Case (1919) - 9-0 vote GUILTY

- 1) issue: freedom of press
- 2) Oliver Wendell Holmes - "clear & present danger" posed
- 3) Became yardstick for 1st Amendment cases

B. Feiner v. New York (1951) - 6-3 GUILTY

- 1) issue: freedom of speech
- 2) Vinson: "Incitement to riot is a clear and present danger"
- 3) Black (in dissent): "He was sentenced for his unpopular views"

C. West Virginia Bd. of Educ. v. Barnette (1943) - 6-3 OVERTURNED

- 1) issue: freedom of religion
- 2) Jackson: "No clear and present danger posed; refusal to salute the flag does not infringe upon rights of others"

D. Rochin v. California (1952) - 9-0 OVERTURNED

- 1) issue: due process of law and self-incrimination
- 2) Frankfurter: "Evidence taken forcibly compelled him to be a witness against himself"

E. Gideon v. Wainwright (1963) - 9-0 OVERTURNED

- 1) issue: due process of law and right to counsel
- 2) Black: "Florida denied Gideon his due process under 14th Amendment which requires state to fulfill 6th Amendment guarantee of assistance of counsel for the poor"
- 3) Retried in Florida he was acquitted of burglary

F. Escobedo v. Illinois (1964) - 5-4 OVERTURNED

- 1) issue: self incrimination and right to counsel
- 2) Goldberg: "Right to counsel denied (6th Amendment) and right to be informed against self-incrimination (5th Amendment)"
- 3) Dissenters: "Ruling would cripple law enforcement"

G. Miranda v. Arizona (1966) - 5-4 OVERTURNED

- 1) issue: self-incrimination and right to counsel
- 2) Warren: "Police before questioning must inform suspect of his rights to remain silent and to legal counsel if he is poor and must warn him that his remarks may be used against him"
- 3) Dissents: "Criminals can gain freedom on technicalities"
- 4) Miranda later convicted when his common law wife testified against him

Summary:

Are the courts too lenient? How important are the Bill of Rights?

ARE THE EXPERIENCES OF BLACK-AMERICANS SIMILAR TO THAT OF OTHER IMMIGRANTS?

Mot: ON BOARD:

Blacks have been in America for over 300 years and have been "free" for 125 years. Yet they have consistently witnessed a succession of determined immigrants overcome discrimination and achieve acceptance and economic success that far surpassed their own.

1. How can we explain this? (LIST POSSIBLE EXPLANATIONS)
2. Does this raise any important questions?

TO AIM

Time Magazine Article - "Resentment Tinged With Envy"

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| 1. Has the black experience in America been a unique one?  | <u>Blacks in America</u><br>a. Came in chains<br>b. Generations of slavery and then racism<br>c. They are "oldest" and "newest" immigrants<br>d. Migration from rural south to north<br>e. Enormous "underclass"<br>-- broken homes<br>-- cycles of welfare                                  |
| 2. In what ways might American blacks be called "internal immigrants?"   | f. Resent new immigrants   |
| 3. What is meant by the phrase, "There are two black Americas?"  |  |
| 4. How entrenched is the "underclass?" Is the fragmented family a detriment to success?  |  |
| 5. Why do blacks resent newer immigrants? Should they resent them? ("Uninvited guests at a meager meal")   | <u>Immigrant blacks</u><br>a. Many from West Indies in recent years<br>b. W. Indians surpassed native blacks in living standards (40% higher family income)<br>c. West Indians<br>- capitalist background<br>- cohesive cultural identity<br>- stick together<br>- resented by native blacks |
| 6. Are blacks of West Indian background an American success story?<br>- Are their experiences different from that of American blacks?<br>- Why are they often resented by American blacks? |  |

Summary: "America: the land of opportunity"

- Is this true for most immigrants?
- Is it true for black Americans?  
(Is America the "land of opportunity denied?")

## I M M I G R A N T S

## BLACKS

## Resentment Tinged with Envy

Three centuries after the first slave ships arrived, a pattern repeats itself

**A** long Harlem's 125th Street, the main artery of what was once the heart and soul of black America, a group of embittered black protesters demonstrates against the string of tidy Korean shops that now almost dominate the thoroughfare. In Miami, native blacks are beginning to feel like spurned foreigners as ambitious Cubans give the city a Latin rhythm and take over what were once bastions of black business. On the grim concrete playgrounds of Powelton Village in West Philadelphia, black children call their Asian classmates "chinks" and "gooks." The Asians, quick learners all, call the blacks "spooks" and "niggers."

Ever since the first slave ships unloaded their human cargo 360 years ago, black Americans have witnessed a succession of determined immigrants—Germans, Irish, Jews, Italians—weather discrimination to achieve a measure of acceptance and economic success that far surpassed their own. Once again the pattern is repeating itself. With a mixture of animosity and admiration, and no small dose of resentment, blacks are watching the new immigrants from Asia and Latin America flourish where blacks have not. Already the median household income of Koreans, Vietnamese, Haitians, Cubans and Mexicans has climbed past that of blacks.

Blacks tend to regard the immigrants as uninvited guests at a meager meal. Many believe the newcomers' gains come at the expense of blacks and that a "racist" system benefits the immigrants. Adding to the bitterness is the black perception that America's newest citizens are embracing one of its oldest traits, racial prejudice. Comedian Richard Pryor does a routine depicting a group of Indochinese boat people taking part in their first citizenship class. Lesson No. 1: the correct pronunciation of the word nigger.

Underlying the tension is a difficult and sensitive question: Why have blacks failed to advance and achieve the way old and new ethnic groups have? As Social Scientist Michael Harrington writes, "Why don't 'they' act like 'we' did? This has long been the cry of well-meaning white Americans who simply can't understand why blacks don't repeat the classic immigrant experience."

The answer, in part at least, is that



MIAMI

A Hispanic policeman and black youths in the Liberty City area

the black experience in America has been unique. No other people came to America in chains. Unlike other groups that experienced spasms of prejudice that lasted a few decades, blacks have faced generations of racism. Indeed, they are among the oldest and newest Americans: old because they have lived in the U.S. since the time the nation was just an idea; new because it has been only in the past 20 years that they have become truly enfranchised citizens. Says Economist Thomas Sowell: "The race as a whole has moved from utter destitution—in money, knowledge and rights—to a place alongside other groups emerging in the great struggles of life. None have had to come from so far back to join their fellow Americans."

In reality, American blacks were immigrants, internal immigrants. Sowell notes in his book *Ethnic America* that from 1940 to 1970 4 million blacks—nearly one-fourth of all the 19th century European immigrants to the U.S. combined—migrated from the rural South, the poorest area of the country, to the urban North. Many of today's urban blacks are only the second generation in the city, and their parents arrived at a time when the smokestack economy was spluttering.

Millions of black Americans have in

fact clambered up the ladder to create a stable and growing black middle class. But there are two black Americas. The other is an entrenched underclass stuck at the very bottom of society. It is these blacks, an alarming percentage of them from fragmented families and households headed by women, who appear less capable of economic survival than the tenacious new immigrants.

In Harlem, the moms and pops who presided over family stores were once Jewish or Italian. When they departed, local blacks were unable to capitalize on the opportunities, leaving many of the stores abandoned and boarded up. During the past five years, entrepreneurial Koreans have taken over about a third of the stores on 125th Street. Last October a ruckus began after a black man was evicted from Ike's grocery, owned by the Shin brothers. A handful of black activists began a boycott of Korean merchants that went on sporadically for a few months. Says Lloyd Williams, a neighborhood black leader: "The effort became to get all the Koreans out of the neighborhood."

Among many blacks in Miami, there is similar resentment of the way Cuban immigrants have moved into small businesses. In 1960 blacks owned 25% of the gas stations in Dade County. By 1979 they had only 9%, while the percentage of His-

panic-owned stations grew from 12% to 48%. The average income of a Hispanic business in Dade County is now \$84,000, almost twice that of a black business.

Standing around Africa Square Park in Miami's shabby, pastel-colored Liberty City, a knot of young blacks laments the Cuban invasion. "They're messing us up," says one. "They're taking bread out of our mouths." Another complains that the Cubans and Haitians are willing, even eager, to work for the legal minimum wage, or less. Many of the young blacks say they would rather not work than hire themselves out for what they consider insultingly low pay. Says Dorothy Fields, founder of Miami's Black Archive, a historical research agency: "It appears that we have a group who feels the world owes them a living because of what their parents and grandparents went through."

In Houston, Indochinese immigrants have become an economic presence, sometimes virtually the only sign of vitality in otherwise depressed areas. Many own or manage 24-hour convenience stores in predominantly black neighborhoods. Says a black Texas Southern University maintenance man who stopped in for a snack at a Vietnamese-run store: "For the first time you can buy fresh meat right in the neighborhood. It's the idea that a foreigner can come in here and move up so quickly that disgusts people." City Councilman Anthony Hall sees the immigrants as models, not enemies. Says he: "They have pooled their resources and created some lucrative opportunities for themselves."

For the Hmong, rural Laotian tribesmen who migrated to Powelton Village in West Philadelphia in 1981, the City of Brotherly Love proved anything but. They came with little knowledge of American life, only to be confronted by crime, unemployment and blacks who called them gooks. The Hmong, though, had been taught one thing about America: do not trust black people. When the teacher of an elementary school English class attempted to explain the meaning of the word hate, the class of young Laotians responded that they knew what they hated: blacks. The mutual ignorance spurred violence. Some of the Hmong were threatened in the streets. In a fight between a group of Hmong and several blacks, one Hmong had both his legs broken and his skull fractured. Less schooled in urban survival than the Koreans and Vietnamese, the Hmong began to move away. Says Chuck Moua: "We are trying to be nice and friendly, but we have got into trouble."

Like most who came before them, the new immigrants are animated by the belief that America is the land of opportunity, and for many of them it is. Yet for much of the black underclass, America still seems to be the land of opportunity denied. In each case, the perception has often been fulfilled. —By Richard Stengel.  
Reported by Jack E. White/New York

## "Off to a Running Start"

The striking contrast between the disappointing economic achievements of American blacks and the progress made by immigrants is commonly attributed to racism. But the discrepancy is also evident when native-born blacks are compared with black immigrants from the West Indies and Africa. Because color is not a factor, such comparisons have fueled a sometimes acrimonious debate about the varying effects of race, class and culture on economic success in the U.S.

Immigrants from Barbados, Jamaica, Trinidad and the Bahamas have been coming to the U.S. in significant numbers since the turn of the

migrant group, both politically and economically."

The accomplishments of the West Indians are often attributed to historical and cultural advantages. Economist Thomas Sowell notes that West Indian slaves, unlike their American counterparts, were assigned individual plots of land for their own crops, a process that fostered business experience denied to American blacks. A cohesive cultural identity, explains Hilliard, endowed them with "an inbred orientation for success." According to a recent study, West Indians who have moved to the U.S. retain an ethnic self-awareness and, partly out of a feeling of superiority, tend to socialize mainly among themselves rather than with native American blacks.

The West Indian passion for education, a legacy of British rule, also seems to give them a head start in the U.S. Says Derrick Hoo, who worked to put himself through college and then law school after immigrating to the U.S. from Jamaica in 1961: "When you come here, you're off to a running start because you have a more solid educational background." According to Harvard Sociology Professor Orlando Patterson, who traces his ancestry to Jamaica, schooling and university degrees are more highly prized among West Indian immigrants than native-born blacks.

American blacks tend to be skeptical of West Indians' achievements and resentful of their sometimes haughty attitude. They believe that West Indians are not as likely to be the target of American racism. Says Robert Hill, a Jamaican who is an assistant professor of history at UCLA: "There is a feeling among whites that the West Indians are not part of the black-white quarrel here."

Like the Koreans, African blacks seem intent on capitalizing on every economic opportunity. Their average income has already surpassed that of blacks born in this country.

The disparities between the success rates of immigrant blacks and members of America's black underclass, Sowell and others have argued, suggest that racism may not be the sole factor in explaining the problems of blacks in the U.S. At least in the case of black immigrants, the traditional advantages offered by class and culture seem to enable them to move more easily into the ranks of the black middle class.



Jamaican-born Lawyer Hoo

century, but in the past 15 years there has been an even stronger surge. From 1961 to 1970, 134,000 immigrants arrived from the West Indies. From 1971 to 1980, that number more than doubled. The number of African blacks coming to the U.S. has also doubled, from 7,000 in 1976 to 15,000 last year. Since 1969 blacks from the West Indies and Africa have accounted for slightly less than 10% of all immigration to the U.S. As a group, these newcomers have already surpassed the living standard of native American blacks.

West Indians have long produced a disproportionate share of black American success stories. Their average family income is now 40% higher than that of all blacks in the U.S., and the percentage who are professionals (9%) is equal to that of native-born blacks. Says Dr. Asa Hilliard, an educational psychologist at Georgia State University: "Immigrants from the Caribbean are, overwhelmingly, the most successful black im-