

SOCIAL JUSTICE TOPIC OF THE MONTH

Do Illegal Aliens Have U.S. Constitutional Rights?

Do not let the fact that the term "*illegal aliens*" does not appear in the U.S. Constitution lead one to believe that its rights and freedoms do not apply to them. The courts have held otherwise. Often described as a "*living document*," the U.S. Constitution has repeatedly been interpreted by the U.S. Supreme Court, federal appeals courts and Congress in order to address the ever-changing needs and demands of the people. While many argue that "We the People of the United States," refers only to legal citizens; the U.S. Supreme Court has consistently disagreed:

Yick Wo v. Hopkins (1886): The Court ruled that the 14th Amendment's statement, "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," applied to all persons "without regard to any differences of race, color, or of nationality," and to "an alien, who has entered the country, and has become subject in all respects to its jurisdiction, and a part of its population, although alleged to be illegally here."

Wong Wing v. U.S. (1896): "Even [illegal] aliens should not be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty, or property without due process of law."

Plyler v. Doe (1982): In this ruling, the Supreme Court found that illegal aliens may claim the benefit of the Equal Protection Clause, which provides that no State shall "deny to any person within its jurisdiction, the equal protection of the laws." Whatever his [or her] status under the immigration laws, an alien is a "person" in any ordinary sense of that term" and therefore subject to the restrictions, compliance, and benefits of law.

It's All About Equal Protection. In essence, the "*equal protection*" clause extends First Amendment protection to anyone and everyone covered by the 5th and 14th Amendments. Through its consistent rulings, the Supreme Court has held that the benefits of the 1st, 5th and 14th Amendments apply equally to illegal aliens.

In rejecting the argument that the "*equal*" protections of the 14th Amendment are limited to U.S. citizens only, the Supreme Court has referred to language used by the Congressional Committee that drafted the amendment:

"The last two clauses of the first section of the amendment disable a State from depriving not merely a citizen of the United States, but any person, whoever he may be, of life, liberty, or property without due process of law, or from denying to him the equal protection of the laws of the State. This abolishes all class legislation in the States and does away with the injustice of subjecting one caste of persons to a code not applicable to another. . . . It [the 14th Amendment] will, if adopted by the States, forever disable every one of them from passing laws trenching upon those fundamental rights and privileges which pertain to citizens of the United States, and to all persons who may happen to be within their jurisdiction."

While illegal aliens do not enjoy all of the rights granted to U.S. citizens by the U.S. Constitution—specifically the rights to vote or possess firearms—these rights can also be denied to U.S. citizens convicted of felonies. In final analysis, the courts have ruled that, while they are within the borders of the United States, illegal aliens are granted the same human, fundamental, and undeniable constitutional rights granted to all Americans.