

## LESSON PLAN

## Lesson 6: Radical Reconstruction and the Birth of Civil Rights

**Essential Question**

What can we learn from the history of Reconstruction as we work to strengthen democracy today?

**Guiding Question**

What can a nation's laws reveal about that nation's universe of obligation?

**Learning Objectives**

- Students will acknowledge that one way a nation can define, both explicitly and implicitly, its universe of obligation is through its constitution and laws.
- Students will recognize that a nation's requirements for citizenship are one way that it uses laws to define who belongs, but nations do not always treat citizens as equals.

**About This Lesson**

In the previous two lessons, students analyzed the Reconstruction policies of President Andrew Johnson and learned about the conditions for freedpeople that emerged in Southern states under Presidential Reconstruction. In this lesson, they will learn about the responses to Johnson's policies by Republicans in Congress. In particular, they will look closely at the Fourteenth Amendment that overturned Presidential Reconstruction. The Fourteenth Amendment introduced the concepts of national citizenship, civil rights, and equality into federal law and the US Constitution.

**Additional Context and Background**

As students learned in the previous lesson, President Johnson's Reconstruction policies largely restored the pre-Civil War political, economic, and social hierarchy in the South. Freedpeople were denied participation in the political process as well as land or any other compensation for their prior labor as slaves, and Black Codes in every Southern state severely restricted their basic civil rights. As a result, many were trapped in a

state of dependence on white landowners that was enforced in many of the same ways as before the Civil War. This was not the post-war Southern society that African Americans and Radical Republicans in Congress imagined.

The Radical Republicans, however, never constituted a majority in their party; they required support from the more numerous moderate Republicans in Congress to enact the changes they sought. Moderates did not initially share the belief in Black male suffrage central to the Radical Republican vision of the reconstructed nation. It would take a political battle with President Johnson in 1866 to unite both moderates and Radicals behind a single Republican plan.

At first, moderate Republicans sought cooperation rather than conflict with President Johnson. Once Congress returned to session in December 1865, a Joint Committee on Reconstruction was created to study post-war conditions in the South under Presidential Reconstruction. Troubled by the Black Codes passed in every Southern state, moderates embraced the principle of equality before the law—the idea that governments should not be permitted to pass laws that designate certain actions as crimes for some groups but not for others.

In early 1866, Republicans passed two bills that sought to bolster protection for freedpeople under Presidential Reconstruction: the Civil Rights Act of 1866 and an extension of the Freedmen’s Bureau. The Civil Rights Act was a landmark law for the following reasons:

- For the first time, it legislated a national definition of citizenship. Previously, citizenship was defined by individual states.
- It declared all persons born in the United States to be national citizens (birthright citizenship), except American Indians, because tribes were considered “sovereign dependent nations” with their own governments.
- It declared all citizens equal before the law, nullifying the Black Codes enacted by several states.
- It declared for all citizens the rights of free labor, including the rights to make contracts, bring lawsuits, and have protection of their persons and property.

President Johnson shocked Republicans in Congress by vetoing both laws. It became clear to moderate Republicans that President Johnson would rebuff their efforts to cooperate.

In response, moderate and Radical Republicans united to override the president's veto of the Civil Rights Act with two-thirds majorities in both houses of Congress, marking the first time in US history that a presidential veto of a piece of major legislation was overridden.<sup>1</sup>

As a bitter conflict between President Johnson and the Republicans in Congress erupted in 1866, Republicans sought to pass a new amendment to the Constitution to protect their vision of the post-Civil War nation from the ever-changing political landscape. The result was the Fourteenth Amendment, a product of intense debate between conservative, moderate, and Radical Republicans. While the amendment is often associated with the Radicals, historians assert that it was an inherently moderate one. Many Radicals, such as Thaddeus Stevens, ultimately supported the amendment while believing it did not go far enough to guarantee universal male suffrage.

Passed by Congress in June 1866 (and eventually adopted by the states in 1868), the Fourteenth Amendment has been hailed by historians as the "Second Constitution" because of the manner in which it redefined the United States as a modern nation. The amendment's important provisions include the following:

- It enshrined birthright citizenship in the Constitution, making the definition of citizenship permanently a national responsibility (rather than a state matter).
- It nationalized the protection of rights guaranteed by the Bill of Rights. States were now forbidden from violating those rights, when previously the rights were only protected from violation by the federal government.
- It provided for "equal protection of the law" for all American citizens (although the meaning of this clause would be contested over the course of the following century).
- It allowed the federal government to penalize states for denying to any male citizen the right to vote by reducing such a state's representation in Congress. By imposing a penalty only when male citizens were denied the right to vote, the amendment made the first reference to gender in the Constitution.
- It banned former Rebels who held pre-war political office from holding office again.
- It prohibited payments to former slaveholders in compensation for the loss of their slaves after Emancipation.
- It prohibited the payment of any debts amassed by the Confederacy to fight the war, but it guaranteed the payment of all such debts incurred by the Union.

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<sup>1</sup> Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877*, Perennial Classics ed. (New York: HarperCollins, 2002), 239-51.

## The Origins of Birthright Citizenship

It is important to note that the definitions of rights and citizenship provided by the Fourteenth Amendment did not originate with Republicans in Congress or even during the Reconstruction era. They were the culmination of decades of activism on the part of free and enslaved African Americans to assert their rights and belonging in the United States. Historian Martha S. Jones points to two historical realities during the antebellum period that influenced such activism in both the North and the South. The first was the presence of colonization schemes, broadly accepted among white abolitionists and some slaveholders, which sought to send Black Americans to Africa in order to preserve their vision of the United States as a white nation. The second was Black laws, which attempted to diminish the influence of free Blacks on enslaved people in the South and dissuade them from settling in the North by denying them rights such as prohibiting them from voting, bearing arms, and receiving equal treatment before the law. The shadow cast by colonization and Black laws meant that Black Americans lived, according to Jones, “with their rights always subject to political whim and their belonging always subject to removal.”

This historical backdrop meant that much of the focus of African American activism centered on securing citizenship in the United States. From this activism emerged the concept of birthright citizenship—the notion that anyone born within a country’s borders is automatically a citizen regardless of the parents’ nationality. This principle became a touchstone for activism within free Black communities long before it became law during the Reconstruction era. In an 1853 address to the Colored National Convention in Rochester, New York, Frederick Douglass asserted African Americans’ rightful place as citizens of the United States:

[B]y birth, we are American citizens; by the principles of the Declaration of Independence, we are American citizens; within the meaning of the United States Constitution, we are American citizens; by the facts of history; and the admission of American statesmen, we are American citizens; by the hardships and trials endured; by the courage and fidelity displayed by our ancestors in defending the liberties and in achieving the independence of our land, we are American citizens.<sup>2</sup>

The birthright principle Black Americans struggled for decades to enact ultimately paved the way for generations to become citizens by virtue of their birth on US soil. According to

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<sup>2</sup> Frederick Douglass quoted in Martha S. Jones, “Citizenship,” in *The 1619 Project*, created by Nikole Hannah-Jones and *The New York Times Magazine* (New York: One World, 2021), 221.

Jones, birthright citizenship is “a foundation of American democracy” that distinguishes it from other democracies worldwide. In 2022, only about 33 countries in the world, nearly all of them in North or South America, recognize birthright citizenship.

## **Radical Republicans Implement Their Plan**

With the political battle lines over Reconstruction drawn, voters would have their say in the battle between the president and congressional Republicans in the 1866 congressional elections. The Fourteenth Amendment was one of the primary issues of the campaign, but two other events—riots in Memphis and New Orleans—further united Republicans against Presidential Reconstruction and galvanized public opinion in their favor. In Memphis, three days of violence in May followed a confrontation between former Black Union soldiers and Irish-immigrant police. The violence resulted in the deaths of 48 people (46 of whom were Black), the rape of five Black women, and the widespread destruction of Black homes and property.<sup>3</sup> In New Orleans in July, local whites attacked about 200 African Americans who were marching in support of Black voting rights. Thirty-four Blacks and three white supporters were killed, more than 100 were injured, and the violence ended only when federal troops intervened.<sup>4</sup>

The violence of 1866 was a sign to many Americans that perhaps the Union had been restored but not adequately reconstructed, that the way freedom had been defined for Black Americans was not adequate, and that Presidential Reconstruction had led to neither healing nor justice. As a result, Republicans swept the elections and gained more than two-thirds of the seats in both chambers of Congress, a majority that could override any presidential veto. Republicans needed such a majority to pass their Reconstruction plans over Johnson’s constant opposition.

Despite the Republicans’ overwhelming success in the 1866 congressional elections, they still needed cooperation from the Southern states in order to add the Fourteenth Amendment to the Constitution. Except for Tennessee, all of the states of the former Confederacy refused. Therefore, Republicans united again to pass the Reconstruction Acts of 1867, which ended the era of Presidential Reconstruction and enacted the plan often referred to as Radical Reconstruction. The Reconstruction Acts included the following measures:

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<sup>3</sup> Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863–1877*, Perennial Classics ed. (New York: HarperCollins, 2002), 262.

<sup>4</sup> Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863–1877*, Perennial Classics ed. (New York: HarperCollins, 2002), 263.

- The South was divided into five military districts and governed by military governors until acceptable state constitutions could be written and approved by Congress.
- All males, regardless of race, but excluding former Confederate leaders, were permitted to participate in the constitutional conventions that formed the new governments in each state.
- New state constitutions were required to provide for universal manhood suffrage (voting rights for all men) without regard to race.
- States were required to ratify the Fourteenth Amendment to be readmitted to the Union.

Although tensions between Congress and President Johnson continued to rise after the 1866 elections (ultimately leading to Johnson's 1868 impeachment and decision not to seek a second term), Johnson was not able to prevent the era of Radical Reconstruction from beginning. The Fifteenth Amendment, prohibiting the denial of voting rights "on account of race, color, or previous condition of servitude," passed Congress during Johnson's final weeks in office in February 1869 (and was adopted by the states in 1870). With African Americans now voting in every state, an "unprecedented experiment in interracial democracy,"<sup>5</sup> the subject of the next lesson, had begun.

While the Fourteenth and Fifteenth Amendments significantly expanded the scope of American citizenship and extended political rights to millions of Americans, they are also notable because they continued to exclude large numbers of Americans. In particular, the protection of voting rights in both amendments was not extended to women. The Fifteenth Amendment, furthermore, did not prevent the implementation of literacy tests, poll taxes, and other methods of indirectly disenfranchising freedpeople and other minority groups. As a result of these limitations, the laws and amendments brought about by the Republican Congress of the late 1860s left many inhabitants of the United States wondering to what extent they belonged.

## Notes to the Teacher

### 1. Defining *Universe of Obligation*

This lesson, in part, explores the ways in which nations define and express their *universe of obligation*. Your students may not yet be familiar with this concept, and you may need to spend some time helping them understand its meaning. You can start by sharing with them the following passage that defines the term:

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<sup>5</sup> Eric Foner, *Forever Free*, (New York: Penguin Random House, 2006), 108.

A society's ***universe of obligation*** includes those people who that society believes are deserving of respect and whose rights it believes are worthy of protection. In other words, it helps define who belongs. A society's universe of obligation often changes, expanding or shrinking depending on circumstances such as peace and prosperity or war and economic depression.

This is a concept that is helpful in thinking about how societies show who belongs and in helping students think about how individuals think about and act on their responsibilities toward others. We encourage you to use resources such as the lesson [Universe of Obligation](#) to engage students in a deeper exploration of this concept and to apply it to other moments in history.

## 2. Preparing for a Thought Museum

In Activity 3 on Day 2 of this lesson, students will explore different quotations about the Fourteenth Amendment using a "Thought Museum" activity. To prepare for the Thought Museum, obtain Post-it Notes in advance of class. Finally, print out each quote from **Quotes About the Fourteenth Amendment** and place them in different parts of the room before class begins.

## 3. Teaching Strategies

These teaching strategies are referenced in this lesson's activities. You may wish to familiarize yourself with them before teaching this lesson.

- [Think, Pair, Share](#)
- [Exit Card](#)

## Materials

- **Video:** [The Political Struggle](#) (9:55–16:28)
- **Handout:** Viewing Guide for "The Political Struggle Viewing Guide Part Two"
- **Reading:** The Fourteenth Amendment
- **Handout:** Quotes about the Fourteenth Amendment

## Activities

### Day 1

#### 1. Reflect on the Concept of Citizenship

Before students engage with the materials in this class, especially the text of the Fourteenth Amendment, it is important to take some time to reflect on the concept of citizenship. Ask students to respond to the following prompts in their journals:

- What rights and protections should come with being a citizen? What responsibilities?
- Why might it be important for noncitizens to gain citizenship in a country?

Have students share their thinking with a partner in a [Think, Pair, Share](#), then discuss the questions as a class.

#### 2. Watch the Second Half of the “The Political Struggle Viewing Guide”

Explain to students that they will be watching the second half of the video they watched in Lesson 4, [The Political Struggle](#). This video covers important contextual information about the history of Radical Reconstruction and the civil rights gains of that period, including Radical objections to Johnson's plan, the Civil Rights Act, the Fourteenth Amendment, and the 1867 Reconstruction Acts.

Pass out the **Viewing Guide for “The Political Struggle Viewing Guide Part Two.”** Play [The Political Struggle](#) and pause at the following time stamps and ask students to discuss with a partner the questions below and on the handout:

1. What were the major Republican objections to President Johnson’s Reconstruction plan? How did the moderates’ objections differ from the radicals’? (11:28)
2. What were some of the key provisions of the Civil Rights Act of 1866? How did the legislation create a split between President Johnson and Congress? (13:22)
3. What were the key provisions of the Fourteenth Amendment? (14:58)
4. What were the key provisions of the 1867 Reconstruction Acts? (16:28)

#### 3. Synthesize Students’ Learning

To help students process all of the information they have learned in class, have students complete an [Exit Card](#) in which they name an event, law, or idea from the lesson that they think is especially significant and explain their choice.



## Day 2

### 1. Acknowledge Exit Cards

At the beginning of class, acknowledge students' responses from the prior day's exit cards. Take some time to read a few exit card responses anonymously, and consider saving responses about the Fourteenth Amendment and birthright citizenship for last, to provide students with a transition into the next activity.

### 2. Read the Text of the Fourteenth Amendment

Share with students that in class today they will be exploring the Fourteenth Amendment, which represented one of the major achievements of the era of Radical Reconstruction and led to a new era of expanded civil rights in the nation. Pass out copies of an excerpt from the Fourteenth Amendment (see reading **The Fourteenth Amendment**) and read it aloud as a class.

Then, break the class into pairs and ask them to paraphrase the amendment on a separate sheet of paper. Then have pairs discuss the following questions:

- What stands out to you about this amendment? What words or phrases strike you as particularly important?
- How do you imagine the passage of this amendment impacted African Americans? How do you think it impacted other Americans?
- What do you imagine would have been the impact of the amendment on democracy in the United States?

Then ask volunteers to share their responses from the paraphrasing activity and to the questions above. Be sure that students understand the following provisions of the amendment. (Note that the amendment included other provisions, such as barring Confederates from holding office, but those provisions are not the focus of the lesson.)

- It enshrined birthright citizenship in the Constitution, meaning that any person born on US soil was entitled to the rights of citizenship. It also made the definition of citizenship permanently a national responsibility (rather than a state matter).
- It nationalized the protection of rights guaranteed by the Bill of Rights. States were now forbidden from violating those rights, when previously the rights were only protected from violation by the federal government.

- It provided for “equal protection of the law” for all American citizens (although the meaning of this clause would be contested over the course of the following century).

### 3. Explore Quotations about the Fourteenth Amendment

Use the quotations from **Quotes about the Fourteenth Amendment** to create a “Thought Museum.” Post the quotations around the room; each quotation will make up one “exhibit.”

Before students leave their seats, explain to them that they will be reading quotations about the Fourteenth Amendment to illuminate the document’s impact.

Then give students several self-stick notes each and provide sufficient time for them to visit and respond to as many exhibits as possible. They should bring their copy of **The Fourteenth Amendment** with them for reference as they move around the room. After reading the quotation(s) at each exhibit, students can add a note to the exhibit with a comment or question that it raises for them. They might also post a connection between a quotation and another historical event, current event, or personal experience.

Once students have spent sufficient time exploring the exhibits, assign one student to “curate” each exhibit. This will entail going to the assigned exhibit and choosing two to three notes that seem particularly important or clarifying. While the curators are working, everyone else should return to their seats. These students can talk in pairs and discuss the following questions:

- What story do these quotations tell?
- What impact did the Fourteenth Amendment have on American democracy?

When the curators are finished, they should each report to the class by first reading the clause of the amendment to which their exhibit pertains and then sharing the notes they chose and explaining their reasoning. After each curator finishes their report, allow time for questions and comments. You may need to provide additional clarification about the Fourteenth Amendment and its meaning throughout the activity.

#### **4. Reflect on the Significance of the Fourteenth Amendment**

Close by asking students to reflect on the following question, first in their journals, and then in a class discussion:

- What does the Fourteenth Amendment say about who deserves rights and protection in the United States? How does it define the country's universe of obligation?