

# Exploring the Equal Protection Clause as a Remedy to Address Racial Disparities

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## Publications & Research

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Societal discrimination is general, pervasive discrimination by society at large rather than discrimination that can be attributed to specific actions by a governmental unit or institution. Attempting to correct societal discrimination has historically involved the government justifying racial preferences as a remedy to such past discrimination against a minority group. Under the Equal Protection Clause, however, race-based laws or governmental actions necessitate strict scrutiny review. To pass strict scrutiny, a government action must be narrowly tailored with a compelling government interest.

This memorandum explores the use of “societal discrimination” in Equal Protection jurisprudence and outlines arguments for why remedying societal discrimination is a compelling state interest not violating the Equal Protection Clause.

## Contacts

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## Working Groups

Other

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