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**The Fourteenth Amendment to the U.S. Constitution:
Its Relevance to State Government and to the 'Status and Rights of Aliens'**

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On July 28, 1868 following mercurial debates, Secretary Steward certified inclusion of the 14th Amendment to the U.S. Constitution. Section 1 states: "nor shall any State deprive any person of life, liberty, or property, without **due process of law**; nor deny any person within its jurisdiction the **equal protection of the laws**." Though "due process of law" and "equal protection of the law" were included in the Fifth Amendment, these did not apply to the States. These 14th Amendment provisions have been cited in landmark cases addressing the "status and rights of aliens."

The seminal roles of "due process of law" and "equal protection of the laws" deserve attention: **Due process of law** dates from the Magna Carta (1215) protecting individual rights from governmental powers and sanctions. EB, Vol. 4, p. 257. The **equal protection of the laws** clause guarantees that persons and groups of similar characteristics must have equal access to legal protection. The equal protection clause originated to prohibit racial discrimination. EB, Vol.4, p.531.

Beginning in the 1960s, the Supreme Court, led by Chief Justice Earl Warren, broadened the usage of equal protection, applying it to such issues as welfare benefits and school financing. Later, Chief Justice Warren Burger's Court (1969-86) extended equal protection of the laws to other areas including the '*status and rights of aliens*.'

Historical shifts have vacillated between striking down discrimination cases against resident aliens, followed by Court recognition that "permissible state interests" could distinguish "between its citizens and aliens by restricting enjoyment of resources and public employment of its own citizens." The Court has created a major "political function" exception to its strict scrutiny review. Examples include a series of cases that gave States the right to set standards for the state civil service, qualifications of elective and judicial officers, persons formulating and executing broad public policies as well as establishing criteria for voting. Ongoing tight scrutiny of the "valid purpose" of any such legislation (1970-84) continues. For example, standards for certification of lawyers must apply equally. Any challenge must be on a case by case basis. Nor can there be discrimination in granting scholarships.

The Supreme Court draws a "tripartite differentiation" on government restriction of aliens: (1) States cannot restrict certain benefits to citizens, primarily employment opportunities. (2) States will be strictly scrutinized in relation to its spending functions such as public employment and public benefits. (3) When a State is establishing its own government, criteria for public office holders "will be subject only to traditional rational basis scrutiny." Disqualifications can be associated to specific occupations, but cannot have general application to the civil service.

References (APA Style Manual, 2002)

U.S. Constitution: Fourteenth Amendment: Annotations: Section 1. Rights Guaranteed:
The New Equal Protection Classifications Meriting Close Scrutiny. Alienage and Nationality.
Find Law for Legal Professionals, pp.1-4, from
<http://caselaw.lp.findlaw.com/data/constitution/amendment>

Due process (1991). *The new encyclopedia Britannica* (Vol. 4, p.257). Chicago:
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