Group Rights According to Constitutional Law:  
An expansion on “Should There Be Group Rights?  
According to the Supreme Court and the United States Constitution,  
Yes.”  
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ABSTRACT  
Group rights have been a controversy for as long as the United States has existed; the Supreme Court of the United States has given, and redacted, opinions regarding the validity of group rights for nearly 200 years in order to both further and restrict the possibility of factions growing too powerful in the eyes of the public and of the government. This research project explores the changing opinion of the Supreme Court on the validity and value of group rights based solely on the outcome of landmark Supreme Court cases in the United States.

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Religion as a Group  

According to the United States Supreme Court, religions and sincerely held beliefs both qualify for group protections as well as lack the correct Constitutional standing to have allocations for group rights; because of the intent to prevent entanglement with the government, religious rights are group rights insofar that the federal government does not have the authority to interfere with them, but also cannot be considered privileges that other groups do not share.

Gender as a Group  
- Reed v. Reed, 401 US 71 (1971).  

According to the United States Supreme Court, gender is extended group rights because it forms a marginalized group that requires its own allocation of privileges via Constitutional Amendment and cannot be separated without discrimination; gender as a construct can change, but in the eyes of history, gender is considered concrete. The change to the definition of gender is discussed later under “Sexuality as a Group” for the inclusion of gender expression under the LGBTQ+ community.

Race as a Group  
- Plessy v. Ferguson, 163 US 537 (1896).  

According to the United States Supreme Court, race is extended group rights because race is a marginalized group that requires its own allocation of privileges via Constitutional Amendment and cannot be separated without discrimination; similar to the reasoning for “Gender as a Group”, race is considered concrete, and therefore cannot be changed. Over time, the reception of race has changed, hence the differing opinions of the Supreme Court in regards to racial equity and equality.

Sexuality as a Group  
- Price Waterhouse v. Hopkins, 490 US 228 (1989)**.  
- Altitude Express, Inc. v. Zarda, 590 US (2020)***  
- Bostock v. Clayton County, 590 US ___ (2020)***  

According to the United States Supreme Court, sexuality and gender expression qualify for group rights, however historically have not been extended group rights until after confirmation at the Supreme Court level. Sexuality and gender expression are not new concepts or rights to fight for, but have recently been more popular in media and in the eyes of the public following the social changes associated with the LGBTQ+ community and the reception thereof.

** signifies an added Supreme Court case that has been included following the conclusion of my initial research period.

Please contact me at mprzi@mtmail.mtsu.edu for a full copy of this research project. Thank you for your interest.