**Civil Rights and Civil Liberties**

**Summary:** In the Declaration of Independence, Thomas Jefferson wrote that all people “are endowed by their creator with certain un alienable rights.” **Civil liberties** are those rights that belong to everyone; they are protections against government and are guaranteed by the Constitution, legislation, and judicial decisions. **Civil rights** are the positive acts of government, designed to prevent discrimination and provide equality before the law.

Civil Liberties

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_—*the original Constitution mentions specific rights considered to be fundamental freedoms by the Founding Fathers:

* *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****—***You must be brought before the court and informed of charges against you.
* no \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**—**you cannot be punished without a trial.
* no \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_—Laws applied to acts committed before the laws’ passage are unconstitutional.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*—added in 1791 to the original Constitution to provide specific guarantees by the national government :

* freedom of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* no unreasonable \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* protections against \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* protections in criminal procedures.

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ provided for the expansion of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*—The Supreme Court in *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* and subsequent case has interpreted the due process clause of the Fourteenth Amendment to apply the guarantees of the Bill of Rights to state and local governments \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Today, most guarantees of the Bill of Rights have been incorporated to apply to the state and local governments.

* *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ are laws that set limits or boundaries on one person’s rights over another’s or bring balance between the rights of individuals and the interests of society*—For example, false advertising is not protected under the First Amendment guarantee of freedom of speech.
* *Court decisions protect rights \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*—Flag burning (*Texas v*. *Johnson*, 1989) is protected, but burning a draft card (*United States v. O’Brien,* 1968) is not protected \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Freedom of Religion

* Two protections for freedom of religion exist: the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.—*Amendment 1

**The Establishment Clause**

According to Thomas Jefferson, the Constitution creates a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Because the church and government are separate in the United States, Congress cannot establish any religion as the national religion, nor favor one religion over another, nor tax American citizens to support any one religion.

Controversy concerning the exact meaning the extent of the Establishment Clause has led to actions by the Supreme Court in defining the parameters of the clause, including:

* Everson v. Board of Education (1947)—The Court upheld a New Jersey policy of reimbursing parents of Catholic school students for the costs of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* Engel v. Vitale (1962)—The Court ruled \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in public schools is unconstitutional.
* Abington School District v. Schempp (1963)—The Court struck down a PA law requiring the reading of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at the beginning of each day.
* Lemon v. Kurtzman (1971)—The Court struck down a PA law reimbursing parochial schools for textbooks and teacher salaries and established the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. To pass the test a law must (1) have a primarily secular purpose; (2) its principal effect must neither aid nor inhibit religion; and (3) it must not create excessive entanglement between government and religion.
* Lynch v. Donnelly (1984)—The Court upheld the right of governmental entities to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with Christmas displays that might include nativity scenes, if secular displays are also sufficiently included.
* Wallace v. Jaffree (1985)—The Court overturned a state law setting aside time for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in public schools.
* Edwards v. Aguillard (1987)—The court ruled that LA could not force public schools that taught evolution \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* Board of Education of Westside Community Schools v. Mergens (1990)—The Court upheld the Equal Access Act of 1984, which required public secondary schools to provide religious groups \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ that other extracurricular groups had.
* Lee v. Weisman (1992)—The court ruled against clergy-led prayer \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* Santa Fe Independent School District v. Doe (2002)—The Court overturned a Texas law allowing high school students \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at athletic events such as football games.

**The Free Exercise Clause**

The Free Exercise Clause guarantees \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ In its interpretations of the Free Exercise Clause, the Supreme Court has made distinctions between belief and practice. The Court has ruled that, while religious belief its absolute, the practice of those beliefs may be restricted, especially if those practices conflict with criminal laws. For example:

* Reynolds v. United States (1879)—The Court upheld the federal law that \_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ even though Reynolds, a Mormon from Utah, claimed that the law limited his religious freedom.

* Wisconsin v. Yoder (1972)—The Court ruled that Wisconsin could not require \_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ beyond the eighth grade because it would violate long-held religious beliefs.

* Employment Division of Oregon v. Smith (1990)—The Court ruled that Oregon could \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to workers fired for using drugs (peyote) as part of a religious ceremony.
* Church of the Lukumi Babalu Aye v. City of Hialeah (1993)—The Court ruled that laws \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ were unconstitutional because they targeted the Santeria religion.

In 1993 Congress passed the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, giving people the right to practice religious activities unless prohibited by laws that are narrowly tailored and the government can show a “compelling interest.” In 1997 the Supreme Court ruled this law \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_in *City of Boerne, Texas v. Flores.*

Freedom of Speech

**Types of Speech**

There are several different classifications of speech:

* *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*—the most common form of speech, verbal speech; given the most protection by the courts
* *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*—verbal and symbolic speech used together, such as a rally and then picketing; may also be limited
* *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*—using actions and symbols to convey an idea rather than words (\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, wearing an armband in protest); may be subject to government restrictions if it endangers public safety.

**Regulating Speech**

Limitations on free speech have generally existed in the area of providing for national security. In 1798 Congress passed the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, making it illegal to say anything “false, scandalous and malicious against the government or its officials.” Although these acts were aimed at the opponents of President John Adams and his Federalist supporters other were convicted under these laws. The Alien and Sedition Acts were never challenged in court, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

After the assassination of President McKinley by an anarchist in 1901 and the entrance of the United States into World War I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and the states began following suit. These and subsequent laws were challenged in the courts.

* Schenck v. United States (1919)—Schenck mailed fliers to draftees during WWI urging them to protest the draft peacefully; was convinced of violating a federal law against encouraging the disobedience of military orders. Oliver Wendell Holmes wrote in the opinion that such speech was not protected during wartime \_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, establishing a standard for measuring what would and would not be protected by speech.

* Gitlow v. New York (1925)—The Court applied the protections of free speech to the states \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the Fourteenth Amendment.
* Chaplinsky v. New Hampshire (1942)—The Court ruled that the first amendment did not protect \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. These fighting words consisted of those words that "by their very utterance inflict injury or tend to incite an immediate breach of the peace."
* Tinker v. Des Moines (1969)—The Court ruled that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in protest of the Vietnam War was symbolic speech, protected by the first amendment.
* Brandenburg v. Ohio (1969)—The court made the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ less restrictive by ruling that using inflammatory speech would be punished only if there was imminent danger that speech would incite illegal act.
* Miller v. California (1973)—The court established \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which sets standards for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_: (1) major theme appeals to indecent sexual desires applying contemporary community standards; (2) shows in clearly offensive way sexual behavior outlawed by state law; and (3) “lacks serious literacy, artistic, political, or scientific value.”
* Texas v. Johnson (1989)—The Court ruled that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is a protected form of symbolic speech.
* Reno v. ACLU (1997)—The Court ruled the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ because it was “overly broad and vague” in regulating Internet speech.

Since the 1940s the Court has supported the preferred position doctrine: First Amendment freedoms are more fundamental than other freedoms because they provide a basis for other liberties therefore, they hold a preferred position and laws regulating these freedoms must be shown to be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Freedom of the Press

Freedom of the press is often protected because it is closely related to freedom of speech; the press is used as a form of expression. Today the press includes \_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* Near v. Minnesota (1931)—The Court applied the protection of free press to the states under the due process clause of the 14th Amendment and prohibited \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_--censorship imposed, usually by a government, on expression before the expression actually takes place
* New York Times v. Sullivan (1964)—The Court protected statements \_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* New York Times v. United States (1971)—The Court reaffirmed its position of prior restraint, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* Hazelwood School District v. Kuhlmeier (1988)—The Court ruled in favor of school district \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as long as censorship is related to legitimate concerns.

Freedom of Assembly and Petition

The First Amendment guarantees the “right of the people peacefully to assemble, and to petition the government for a redress of grievances”. Freedom of assembly and petition applies to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, allowing citizens to make their views known to government officials through \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The courts have protected these rights while allowing the government to set limits to protect the rights and safety of others.

* Dejonge v. Oregon (1937)—The Court established that the right of association (assembly) was an important as other First Amendment rights and used the due process clause of the 14th Amendment to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The courts have generally ruled:

* That to protect public order, government may require groups wanting to parade or demonstrate to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* Certain public facilities (schools, airports, jails) not generally open to the public \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* Restrictions on assembly must be worded precisely and must apply to all groups equally.
* The right to assemble does not allow groups \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (creates buffer zones around abortion clinics).

* Police may disperse demonstrations in order \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or protect the public’s safety (if demonstrations become violent or dangerous to public safety).

Property Rights

The due process clause of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ provide for the protection of private property by guaranteeing that the government cannot deprive a person of “life, liberty, or property, without due process of law.” Although the Supreme Court has not defined the term due process, it has generally accepted the concept of government acting \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **(what)** involves the policies of government or the subject matter of the laws, determining whether the law is fair or if it violates constitutional protections. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **(how)** is the method of government action or how the law is carried out, according to established rules and procedures.

Although the due process clause has often been applied to those accused of crimes (the guarantee of a fair trial would be due process), due process has been also used to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The 5th Amendment states that government cannot take private property for public use \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The right of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ allows to take property for public use but also requires that government provide just compensation for that property.

Right to Privacy

The Constitution makes no mention of a “right to privacy.” The Supreme Court, however has interpreted several rights that might fall under the category of privacy.

* Griswold v. Connecticut (1965)—The Court ruled that the First, Third, Fourth, Ninth, and Fourteenth Amendments created \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and enhanced the concept of enumerated rights.
* Roe v. Wade (1973)—The outcome was a continuation of the recognition of a constitutional right of privacy for a woman to determine whether \_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Rights of the Accused

Several amendments of the Bill of Rights address the rights of those \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The 14th Amendment extends those protections to apply to the states.

**4th Amendment: Search and Seizure**

* Wolf v. Colorado (1949)--The Court applied \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and seizure to the states under the due process clause of the 14th Amendment.

* Mapp v. Ohio (1961)--The Court ruled that evidence obtained without a search warrant was \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. *Mapp v. Ohio* involved the application of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to the states. The exclusionary rule is the Court’s effort to deter illegal police conduct by barring from court evidence that has been obtained in violation of the 4th Amendment.
* Terry v. Ohio (1968)--The Court ruled that searches of criminal suspects are constitutional and police may search suspects \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* Nix v. Williams (1984)--The Court established the inevitable discovery rule, allowing evidence discovered as the result of an illegal search to be introduced if it can be shown that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* United States v. Leon (1984)--The Court established the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to the exclusionary rule.

**5th Amendment: Self-Incrimination**

* **Miranda v. Arizona** (1966)--The Court ruled that suspects in police custody have certain rights and that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (right to remain silent, right to an attorney).

**6th Amendment: Right to an Attorney**

* Powell v. Alabama (1932)--The Court established that the due process clause of the 14th Amendment guarantees defendants \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the right to an attorney.
* Betts v. Brady (1942)--The Court ruled that the poor defendants in \_\_\_\_\_\_\_\_\_\_\_\_\_\_ are not entitled to an attorney at government expense.
* Gideon v. Wainwright (1963)--The Court ruled that in state trials, those who cannot afford an attorney \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, overturning *Betts v. Brady.*
* Escobedo v. Illinois (1964)--The Supreme Court extended the exclusionary rule to illegal confessions in state court cases. The Court also defined the “Escobedo rule,” which stated that persons have the right to an attorney when an investigation begins “to focus on a particular suspect.” If the suspect has been arrested, has requested an attorney, and has not been warned of his or her right to remain silent, the suspect has been \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**8th Amendment: Cruel and Unusual Punishment**

* Furman v. Georgia (1972)--The Court ruled \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ under existing state law because it was imposed arbitrarily.
* Gregg v. Georgia (1976)--In this case, the death penalty was constitutional because it was imposed based on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Civil Rights

Civil rights are guaranteed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ which was added to the Constitution after the Civil War to prevent states from discriminating against former slaves and to protect former slaves’ rights.

The courts recognize that some forms of discrimination may be valid (preventing those under 21 from consuming alcohol) and have therefore devised the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to determine if the discrimination has a legitimate purpose. The courts have also developed the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a much stricter standard.

If the discrimination reflects prejudice, the courts automatically classify it as suspect and require the government \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the discrimination. For example, if a city had separate schools for different races, the city would have to prove how this serves a compelling public interest.

The Civil Rights Movement

After the Civil War three amendments were passed to ensure the rights of the former slaves.

* The 13th Amendment \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* The 14th Amendment \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which were used by the Supreme Court to apply the Bill of Rights to the state and local governments.

* The 15th Amendment provided that individuals could \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or the fact that they were once a slave. Until the 1950s and 1960s states continued to use discriminatory practices to prevent African Americans from participating in the political processes.

* Block codes were state laws passed to keep former slaves in state of political bondage. The laws included \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ outlawed racial discrimination in public places such as hotels, theaters, and railroads but required African Americans to take their cases to federal court, a time-consuming and costly endeavor. The act was ruled unconstitutional in 1883.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ were laws designed to segregate the races in schools, public transportation, and hotels.
* In *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* (1896) the Supreme Court upheld the Jim Crow laws by allowing separate facilities for the different races if those facilities were equal. This created \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* With Executive Order 8802 (1941) Franklin Roosevelt \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* With Executive Order 9981 (1948) Harry Truman ordered the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* In *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* (1954) the Supreme Court overturned the *Plessy* decision, ruling that separate but equal is unconstitutional.
* In *Brown v. Board of Education II* (1955) the Supreme Court ordered the desegregation of schools \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
* The Civil Rights Act of 1957 created the Civil Rights Division within the Justice Department and made it a crime \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* The Civil Rights Act of 1964 prohibited discrimination in employment and in places of public accommodation, outlawed bias in federally funded programs, and created the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (EEOC).
* The Twenty-Fourth Amendment (1964) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* The Voting Rights Act of 1965 allowed federal registrars to register voters and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and other discriminatory tests in voter registration.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ made it easier for job applicants and employees to bring suit against employers with discriminatory hiring practices.

Other Minorities

With the successes of the African American civil rights movement, other minorities have also pressed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Hispanics, American Indians, Asian Americans, women, and people with disabilities have all joined in the quest for protection from discriminatory actions.

**Hispanic Americans**

Hispanic Americans is a term often used to describe people in the United States who have a Spanish-speaking heritage, including Mexican Americans, Cuban Americans, Puerto Ricans, and Central and South Americans. Today, the Hispanic population is the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Although the number of Hispanics elected to public office has increased since the 1970s, their progress continues to be hampered \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Civil Rights action on behalf of Hispanics has concentrated on health care for undocumented immigrants, affirmative action, admission of more Hispanic students to state colleges and universities, and redistricting plans that do not discriminate against Hispanic Americans.

**Native Americans**

More than two million Native Americans \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. As a result of discrimination, poverty, and unemployment, are common problems. Lack of organization has hampered Native American attempts to gain political power. With the formation of militant organizations (National Indian Youth Council and American Indian Movement) and protests (siege at Wounded Knee), Native Americans have brought attention to their concerns.

A 1985 Supreme Court ruling upheld treaty rights of Native American tribes. \_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ allowed Native Americans to have gaming operations (casinos) on their reservations, creating an economic boom in many tribes. In 1990 Congress passed the Native American Languages Act, encouraging the continuation of native languages and culture.

**Asian Americans**

Discrimination against Asians arriving in the United States began almost immediately as Asian workers began competing for jobs. Beginning in 1882, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (and other similar acts) limited the number of Asians permitted to enter the U.S. After the bombing of Pearl Harbor, people of Japanese descent were forced into relocation camps.

The Supreme Court upheld these actions until 1944, when they declared the internments to be legal in *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.* In 1988 Congress appropriated funds to compensate former camp detainees or their survivors.

**The Women’s Movement**

Throughout much of American history, women have not been given the same rights as men.

* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1920) gave women the right to vote.
* The Equal Pay Act (1963) made it illegal to base an employee’s pay on race, gender, religion, or national origin. This also affected the African American Civil Rights movement.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ banned job discrimination on the basis of gender.
* In *Reed v. Reed* (1971) the Supreme Court ruled against a law that discriminated against women deciding that the equal protection clause of the 14th Amendment denied unreasonable classifications based on gender.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1972) required schools to give all boys and girls an equal opportunity to participate in sports programs.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1972) prohibited discrimination against women seeking credit from banks, finance agencies, or the government and made it illegal to ask about a person’s gender or martial status on a credit application.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1991) required employers to justify gender discriminations in hiring and job performance.

**People with Disabilities**

* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1973) prohibited discrimination against people with disabilities in federal programs.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1975) guarantees that children with disabilities will receive an “appropriate” education.
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (1990) forbids employers and owners of public accommodations from discriminations against people with disabilities (must make facilities wheelchair accessible, etc.). The act created the Telecommunications Relay Service, which allows hearing and speech-impaired people access to telephone communications.

**Homosexuals**

Prior to the 1960s and 1970s few people were willing to discuss their sexual preferences in relation to same-sex relationships. After \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ following a police raid of gay and lesbian bar in 1969, the gay power movement gained momentum.

Organizations such as the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ began exerting pressure and influence on state legislatures to repeal laws prohibiting homosexual conduct. As a result of the growth of the gay rights movement, the Democratic Party has included \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as part of its platform, and several states have passed laws prohibiting discrimination against homosexuals in employment, housing, education, and public accommodations.

In *Romer v. Evans* (1996) the Supreme Court ruled that a Colorado constitutional amendment invalidating state and local laws that protected homosexuals from discrimination was unconstitutional because it violated the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**The Elderly**

Discrimination has also been an issue with the elderly. Job discrimination made it difficult for older people to find work. As a result, in 1967 Congress passed the \_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, prohibiting employers from discriminations against individuals over the age of 40 on the basis of age.

**Affirmative Action**

Affirmative Action is a policy \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Most issues of affirmative action are race or gender based. In 1978 the Supreme Court ruled in *Regents of the University of California v. Bakke* that the affirmative action quotas used by the University of California in their admissions policies were unconstitutional, and that Bakke had been denied equal protection because the university used race as the sole criterion for admissions.

In the more recent *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* the Court struck down the University of Texas Law School’s admissions program, stating that race could not be used as a factors in deciding which applicants to admit to achieve student body diversity, to prevent a hostile environment at the law school, to counteract the law school’s reputation among minorities, or to end the effects of past discrimination by institutions other than the law of school.

In 2003 the Supreme Court ruled that universities within the jurisdiction of the Fifth Circuit can use race as a factor in admissions \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. In recent court decisions the court seems to be taking a more conservative view of affirmative action programs and many fear that affirmative action is on the decline.

**Key Terms**

Civil liberties Establishment Clause Exclusionary rule

Civil rights Free Exercise Clause *Miranda* *v. Arizona*

*Writ of habeas corpus*  Lemon Test *Plessy v. Ferguson*

Bills of attainder Pure Speech *Brown v. Board of*

Ex post facto laws Speech plus *Education*

Self-incrimination Prior restraint Equal Protection Clause

Double jeopardy Substantive due process Affirmative action

Incorporation Procedural due process

Symbolic speech eminent domain

**Rapid Review**

* Civil liberties are those rights that belong to everyone and are guaranteed by the Constitution, Bill of Rights, Fourteenth Amendment, legislative actions, and court decisions.
* The establishment clause of the First Amendment has been interpreted to mean that there is a separation between church and state, preventing the government from supporting religion or one religion over another
* The Lemon Test established standards for measuring separation of church and state.
* There are three classifications of speech: pure speech, symbolic speech, and speech plus
* The right to free speech is not absolute. Speech may be regulated if national security is at stake; fighting words and obscenity are not protected forms of free speech. The Internet has not been regulated.
* Freedom of the press is often protected because it is closely related to free speech. Press includes newspapers, magazines, radio, television, and the Internet.
* The First Amendment also guarantees freedom of assembly and petition
* The due process clauses of the Fifth and Fourteenth Amendments provide for the protection of private property.
* The Constitution makes no mention of the right to privacy; however, the Supreme Court ruled that such a right exists under the Constitution.
* Several amendments of the Bill of Rights address the rights of those accused of crimes, including the Fourth, Fifth, Sixth, and Eighth Amendments. The Fourteenth Amendment extends those protections to apply to the states.
* Civil rights are the positive acts of government designed to prevent discrimination and provide equality before the law.
* The civil rights movement began after the Civil War, with African Americans striving to gain political, social, and economic equality.
* Discriminatory practices were used by the states to prevent political participation by African Americans. These practices included black codes and Jim Crow laws.
* A positive step for African Americans came with the *Brown v. Board of Education* ruling in which the Supreme Court overturned the *Plessy* “separate but equal” ruling.
* The success of the African American civil rights movement have encouraged other minorities, such as Latinos, Native Americans, and Asian Americans, to call for an end to discrimination.
* Women have also worked to end discrimination. Their successes include gaining the right to vote and protections against employment discrimination.
* The Americans with Disabilities Act of 1990 forbids discrimination against people with disabilities.
* Affirmative action is a controversial policy designed to correct the effects of past discrimination.