



***Civil Liberties and
Civil Rights***

Government

Civil Liberties

Protections, or safeguards, that citizens enjoy against the abusive power of the government

Bill of Rights

- First 10 amendments to Constitution
- Applies only to the federal government

Selective Incorporation

- Process of making the Bill of Rights work at the state level
- The Supreme Court has applied the Bill of Rights to the states using court cases before the court

Sunshine Laws

- Statutes that mandate that meetings of governmental agencies and departments be open to the public at large.

The background features a stylized American flag motif. On the left side, there are several horizontal stripes in various shades of blue, curving upwards and to the right. The rest of the background is a solid, deep blue color. The text 'Bill of Rights' is centered in the lower half of the image.

Bill of Rights

1st Amendment

Guarantees 5 freedoms

Speech

Press

Religion

Petition

Assembly

1st: Types of Speech

- Pure Speech
 - Speech only
- Speech-Plus
 - Words + Actions
- Symbolic speech
 - Representations of ideas without words
 - Sit ins, armbands, flag burning, etc.
 - Unconstitutional when the mode of expression (not the ideas) are considered harmful.
- SELECTIVE INCORPORATION
 - **Tinker v. Des Moines**
 - Wearing black arm bands for protest is legal under freedom of (symbolic) speech
 - **Texas v. Johnson**
 - flag burning is protected under freedom of speech. (symbolic)

1st: Speech & Press

- *Unprotected speech includes*
 1. *Obscenity*
 2. *Pornography*
 3. *Fighting words (incite violence)*
 4. *Seditious speech (treason)*
 5. *Defamatory speech*

1st: Speech

**Defamation – not protected by the 1st-
saying or printing untrue things that
could hurt a person's reputation**

- **Libel**
 - Written statement that defames the character of another person
- **Slander**
 - Oral (spoken) statement that defames the character of another person

1st: Exceptions to Freedom on Speech & Press

- **Clear and Present Danger Test**
 - Prohibited speech only when it would result in imminent harmful consequences
- **Prior Restraint**
 - censorship before publication (gag orders)
- **Shield Laws**
 - None at federal level, up to states
 - Would protect reporters from revealing their source
- **SELECTIVE INCORPORATION**
 - **Schenck v. U.S.**
 - encouraged people to avoid the draft and handed out anti-war leaflets...since in war, posed a threat to safety and therefore not allowed)
 - **Hazelwood v. Kuhlmeier**
 - principal stopped a story before printed in the school newspaper

1st: Religion

Establishment Clause

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;”

Forbids Congress from establishing a national religion

- **SELECTIVE INCORPORATION**
 - ***Engel v. Vitale***
 - No school prayer
 - ***Wallace v. Jafree***
 - No moment of silence for prayer
 - ***Lemon v. Kurtzman***
 - Rules for using tax money on private (religious) schools

1st: Religion

Free Exercise Clause

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;”

Guarantees the right to practice a religion of their choice

Conscientious Objector

Person who refuses to perform military service because of opposition to war based on religious beliefs

1st: Assembly & Petition

- Must be lawful and nonviolent
- It is usually the onlookers, not the protestors that cause the problems
- The state can protect from assembly on private property
- Extremist groups can't be punished if their words are not expressly linked to action



Rights of the Accused

Rights of the Accused: Prohibited Powers: Unconstitutional

- Bill of Attainder
 - Declares a person guilty w/o a trial
- Ex post facto law
 - Makes an act criminal when it was committed legally (illegal after the fact)
- Suspension of writ of habeas corpus
 - Arresting and imprisoning w/o cause

4th Amendment: Prohibits Unreasonable Search & Seizure

- Warrant required
 - Must have probable cause
 - Must describe place & person/things to be seized
- Exclusionary Rule
 - Evidence illegally obtained can be excluded in court proceedings.
- Miranda Rights
 - Must read a suspect their rights

SELECTIVE INCORPORATION:

- ***Mapp v. Ohio***
 - *Arrested Mapp for having obscene materials in home but warrant was looking for another suspect and his bomb-making materials.*
- ***Miranda v. Arizona***
 - *suspect testified without lawyer, claimed he did not know he had the right to remain silent.*

5th Amendment: Rights when Accused

- Right to a grand jury
 - Indictment guarantees enough evidence to go to trial
- Double jeopardy
 - Can't be tried for the same offense of law twice
- Self incrimination
 - Can't be forced to serve as witness against self
- Miranda Rights
 - Miranda v. Arizona
- Due process
 - Fair Procedures for all
- Eminent domain
 - Private property can't be taken w/o just cause

6th Amendment: Rights when On Trial

- *Right to a speedy and public trial*
- *Right to a petit jury trial (12 members)*
- *Right to be informed of charges*
- *Right to confront witnesses*
- *Right to counsel*
 - ***Gideon v. Wainwright*** (Florida man denied lawyer because he couldn't afford one and the charges were state charges...challenged from jail and won)

7th & 8th Amendments

7th

Jury Trial in Civil Cases

Right to a trial jury for cases involving more than \$20

8th

Bail, Punishment

No excessive bail, no cruel & unusual punishment

Death Penalty is Legal if administered equally:

Two Stage Trial:

Stage 1: Decide Guilt

Stage 2: Decided Punishment

9th Amendment: Non-Enumerated Rights

Provides the basis for civil liberties not specifically mentioned in the Constitution

Privacy usually argued under the 9th Amendment

Fourteenth Amendment

Due Process Clause

No state can deprive a person of life, liberty or property without due process of law

- **Substantive** – *substance of the law guarantees due process*
- **Procedural** – *actions of those involved guarantee due process (police, lawyers, judges)*