

KNOW YOUR RIGHTS

A guide to the
United States
Constitution



Message from the U.S. Attorney



Fellow Citizens:

For more than 200 years, the Constitution of the United States has been a “working” document, maintaining the original principles upon which our nation was founded while, at the same time, changing with the country, as reflected in its amendments. While the U.S. Constitution itself outlines the basic structure of the federal government, its twenty-seven amendments address many subjects but primarily focus on the rights of individual American citizens. This booklet outlines those rights, offering historical context and other information that is both interesting and informative.

The continued vitality of our democracy is dependant upon an informed citizenry. Understanding the history of the Constitution and its amendments will assist all of us in more fully appreciating these rights and responsibilities as they have evolved over time. Moreover, such understanding will ensure that these rights will continue to be exercised, valued, and cherished by future generations.

President James Monroe stated at the founding of our country that “[i]t is only when the People become ignorant and corrupt, when they degenerate into a populace, that they are incapable of exercising their sovereignty. Let us, by all wise and constitutional measures, promote intelligence among the People, as the best means of preserving our liberties.” This publication is provided as just one source of what we hope will be a continued education as to the liberties we all hold so dear. Thank you.

Deborah R. Gilg
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I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve of them. For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise.

-Benjamin Franklin

BILL OF RIGHTS

As originally ratified, the Constitution primarily addressed the structure of the government and provided for few individual liberties. Instead, they were set forth later in the Bill of Rights, comprised of the first ten amendments to the Constitution. A bill of rights was demanded by many states in return for their ratification of the Constitution, which they felt needed to outline individual liberties as well as government structure. As a result, the Constitution began its evolution as soon as it was ratified and continues to be changed through amendments based on the will of the people and the interpretation of the U.S. Supreme Court. Nonetheless, the fundamental principles on which this country was founded remain at the core of this document more than 200 years later.

Incorporation of the Bill of Rights

The Bill of Rights remained little more than an empty promise of individual freedom until 1803, when the U.S. Supreme Court held in *Marbury v. Madison* that it had the authority to strike down legislation it found unconstitutional. Even then, the amendments applied only to the federal government and failed to bind individual states until the late 1890s, when the Doctrine of Incorporation began to take shape.

Through a series of decisions beginning in 1897, the Supreme Court held that the Fourteenth Amendment ensured that portions of the Bill of Rights were enforceable against the states and not just the federal government. One by one, rights have been enumerated by the Supreme Court as worthy of constitutional protection regardless of whether governmental interference is the result of state or federal action. Such rights are said to be “incorporated” against the states through the Fourteenth Amendment.

Rights Incorporated by the Supreme Court

1897	1925	1931	1937	1940	1961	1963	2010
<i>Chicago, Burlington & Quincy Railroad v. City of Chicago</i>	<i>Gitlow v. New York</i>	<i>Near v. Minnesota</i>	<i>DeJonge v. Oregon</i>	<i>Cantwell v. Connecticut</i>	<i>Mapp v. Ohio</i>	<i>Gideon v. Wainwright</i>	<i>McDonald v. Chicago</i>
Protection against taking private property without fair compensation	Freedom of speech	Freedom of press	Freedom of assembly	Freedom to exercise religion	Protection against unreasonable search and seizure	Right to assistance of counsel	Right to keep and bear arms

THE FIRST AMENDMENT

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Freedom of Religion

The First Amendment protects religious freedom in two ways: It forbids Congress from establishing a national religion and prohibits Congress from passing any law that impedes the freedom of Americans to practice their faith however they wish.

Why does it matter?

According to Thomas Jefferson, the First Amendment builds “a wall of separation between church and state.” That separation was key to early American settlers because religious wars were ripping Europe apart during the 16th and 17th centuries. Almost every nation had an “established church,” and people who did not join were denied rights and often banished, jailed, tortured, or murdered. Unfortunately, early American colonies also established official churches funded by the tax dollars of residents, even if they were not members of the church. Minority religious groups were routinely excluded from the community, either by law or violence.

By the time of the American Revolution, the religious revival known as the Great Awakening had prompted an outbreak of new religious groups. The increased diversity gradually led to more religious tolerance in the colonies. When the Constitution was written, freedom of religion was considered an essential right, necessary for maintaining a free society, and worthy of the utmost protection.

What does it mean today?

The founding fathers supported the separation of church and state to protect religion from political corruption and to protect government from religious interference. Nonetheless, throughout American history, freedom of religion has been contested in a variety of contexts.

In the 18th century, “religious tests” were common for those who wanted to hold public office, the belief being that non-Protestants were not trustworthy. The Constitution banned such tests for federal office, but some states were slow to do so for state offices. In fact, it wasn’t until 1961 that the Supreme Court found Maryland’s religious test for public office unconstitutional.

The Supreme Court has declared freedom of “belief or conscience” an absolute right, meaning that the government may not interfere with it except in extenuating circumstances. Even so, the courts have viewed religious “conduct” quite differently. Unlike religious belief, religious conduct occasionally must yield to government. In such instances, courts must consider both the government’s interest in taking a particular action and the religious rights affected by that action.

Historically, government action relative to religious conduct has been deemed unconstitutional unless no alternative form of regulation will serve the government’s interest. For example, the government cannot override a competent





And So It Goes

In 1805, Chief Red Jacket spoke against the efforts of missionaries to baptize members of the Seneca tribe. “Brother,” he said, “we do not wish to destroy your religion or take it from you. We only want to enjoy our own.” Approximately 150 years later, in 1960, John F. Kennedy had to address fears that if elected president, he, a Catholic, would allow the Pope to rule America from afar. Today, there is misunderstanding and mistrust of the Muslim religion despite its rich historical role in America. Muslim crew members accompanied Columbus on his voyage to the new world, and Muslim-American soldiers have been protecting the United States since its inception.

adult’s decision to refuse a blood transfusion based on religious beliefs, even if it is necessary to save his or her life. On the other hand, the government may intervene if parents refuse a life-saving transfusion for their child. In such cases, the courts have ruled that the government’s interest in saving the minor’s life outweighs religious liberty.

More recently, the Supreme Court has gone so far as to uphold government action that affects religious conduct so long as the resulting restriction is not the purpose of the action but merely incidental to it. For instance, Oregon passed a law prohibiting the possession of peyote, a powerful hallucinogenic traditionally used in Native American religious rituals. Although the new law infringed on the religious conduct of Native Americans, the U.S. Supreme Court held that it was constitutional because the primary purpose of the law was to protect people from a harmful drug, not to target Native American religion. A few years later, however, a different decision was reached in a case involving the Santeria religion, which practices animal sacrifice. That case stemmed from a city ordinance passed in Hialeah, Florida, after city leaders learned a Santeria church was about to be established within city limits. The ordinance prohibited the “unnecessary killing of an animal in a public or private ritual or ceremony not for the primary purpose of food consumption.” The Supreme Court found the ordinance unconstitutional because it targeted the Santeria religion without a compelling reason to do so.

In light of these divergent decisions, among others, Congress decided to take action to safeguard long-held religious protections. In 1993, it passed the Religious Freedom Restoration Act, which restored the requirement that the federal government have a “compelling interest” before intruding in religious practices. The Supreme Court subsequently held that the law did not apply to states. Congress then passed the Religious Land Use and Institutionalized Persons Act of 2000, which protects religious institutions from burdensome zoning law restrictions and protects inmates’ rights to exercise religion.



Finally, I believe in an America where religious intolerance will someday end—where all men and all churches are treated as equal—where every man has the same right to attend or not attend the church of his choice—where there is no Catholic vote, no anti-Catholic vote, no bloc voting of any kind—and where Catholics, Protestants, and Jews, at both the lay and pastoral level, will refrain from those attitudes of disdain and division which have so often marred their works in the past, and promote instead the American ideal of brotherhood...

-John F. Kennedy



The press is the best instrument for enlightening the mind of man, and improving him as a rational, moral, and social being.

-Thomas Jefferson

Freedom of Speech & Press

The First Amendment protects individual expression by guaranteeing the freedom of speech. The Supreme Court has broadly interpreted “speech” to include Internet communication, art, music, clothing, and even “symbolic speech,” such as flag burning. Freedom of the press generally allows for newspapers, radio, television, and now many online sources to publish articles and express opinions representing the public dialogue without interference or constraint by the government.

Why does it matter?

In some countries, individuals can be prosecuted for criticizing the government or voicing unaccepted minority beliefs. But the founding fathers understood that a free government must guarantee individuals the right to express personal opinions. Free speech is believed to provide the following benefits—

- *Brings about peaceful social change by providing the ability to influence public opinion through persuasion rather than violence;*
- *Protects all individual rights by ensuring that people can speak up when their rights have been violated without fear of repercussions;*
- *Advances knowledge by allowing free discussion of all points of view, which can then form the basis for future scientific discoveries, moral beliefs, or political platforms;*
- *Promotes individual growth and human dignity by allowing people to develop and share their own ideas regarding morality and politics, thus challenging the views of others; and*
- *Furthers a representative government by ensuring government officials have access to information and different points of view when determining policy reflective of the will of the people.*

To make certain that freedom of speech has an appropriate outlet and does not fall short of its purposes, the First Amendment guarantees freedom of the press. The media have a responsibility to inform the public on current events so citizens can make sound decisions, such as which electoral candidates or propositions to support. In many ways, the media also provide a check on the government by asking questions of public officials that citizens may not be able to ask.

What does it mean today?

Throughout history, many cases have tested the boundaries of free speech and press, but those rights have been consistently protected and reaffirmed by the Supreme Court. The First Amendment prohibits the state and federal government from restricting speech based on content or by imposing prior restraints on speech.

Most forms of speech are protected by the First Amendment, but there are exceptions for speech that does not add to public debate or may cause harm. Those exceptions include obscenity, defamation, incitement to riot, fighting words, harassment, privileged communications, trade secrets, classified material, copyright, patents, military conduct, and commercial speech, such as advertising.

In addition, speech that is part of an act the law traditionally considers criminal is not protected by the First Amendment. For example, publishers cannot distribute magazines containing child pornography since the manufacturing, distribution, and possession of child pornography is illegal. In that case, protecting children from exploitation is deemed to be more important than any message provided in the magazine.

Defamation, or speech that contains false and derogatory statements that injure someone's reputation, also fails to receive the same protection as other forms of speech. Defamation can occur through spoken word (slander) or written communication (libel). The issue of whether public figures may sue for defamation has been debated before the Supreme Court. In *New York Times Co. v. Sullivan* (1964), the police commissioner of Montgomery, Alabama, sued the *New York Times* for running an advertisement that alleged police brutality in Montgomery. Although the advertisement was false in only a few respects and the publisher printed it without knowledge of the misstatements, it was considered defamatory under Alabama law. However, the U.S. Supreme Court deemed the state law unconstitutional. Justice William Brennan wrote that there is a "central meaning of the First Amendment" that includes "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." As a result, a statement about a public official is constitutionally protected unless the official can prove that it is false and was made with "actual malice" or with "knowledge that it was false or with reckless disregard of whether it was false or not."

The government may limit speech based on its content only when it has a compelling interest, such as when the speech presents a clear danger to public safety. This is a difficult standard for the government to meet. In *New York Times Co. v. United States* (1971), Daniel Ellsberg, a former national security employee, intended to interfere with the Vietnam War by releasing to the *New York Times* information critical of government policy. The Supreme Court ruled that the First Amendment protected the right of the *New York Times* to print the materials. The Court found that the government had not set forth compelling evidence of a danger to the public.

A regulation that limits the time, place, and manner of speech, but not the message a speaker intends to convey, also may be allowed in some circumstances. For example, in *Frisby v. Schultz*, the Brookfield Town Board passed a law prohibiting any person from picketing "before or about the residence or dwelling of any individual" within the town. The Supreme Court upheld the law, finding that protecting privacy in residential homes outweighs any rights that protestors have to target a home with unwelcome speech.

But, above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.

-U.S. Supreme Court Justice Thurgood Marshall



We in America do not have government by the majority.
We have government by the majority who participate.
-Thomas Jefferson

Freedom to Petition & Assemble

The right of the people to assemble peaceably and petition the government for redress of grievances without fear of punishment or retribution was important to the founders of this country because England's King George III and Parliament routinely refused to address grievances, including those concerning imposition of taxes without the consent of the people and the denial of trial by jury.

Why does it matter?

The right to petition includes the ability to picket or rally, mail letters, sign petitions, publish articles, or use other forms of communication to deliver a message to the federal, state, and local government. The courts have also established that citizens may petition any branch of government—executive, legislative, or judicial. This freedom has played an extremely important role in history, particularly during the civil rights movement, when the U.S. Supreme Court ruled in many cases that African Americans and other activists could lawfully stage peaceful protests, sit-ins, and boycotts. The freedom to assemble peaceably and petition the government is an important right exercised by citizens as a way to engage elected officials and hold them accountable.

What does it mean today?

The Supreme Court affirmed that freedom of assembly implies freedom of association. In other words, the First Amendment protects the right to join political parties, labor unions, social clubs, and other organizations. In *Hague v. Committee for Industrial Organization* (1939), the Supreme Court affirmed the freedom to assemble peaceably by siding with the Committee for Industrial Organization in its quest to organize labor union meetings and distribute literature. Mayor Frank “Boss” Hague of Jersey City, New Jersey, viewed the committee as “communist” and tried to use a city ordinance to prevent it from meeting in public places and distributing its literature. The Supreme Court ruled in the committee’s favor, however, finding that the city ordinance violated the First Amendment right to assemble freely.

Note that the First Amendment does not explicitly require that the government respond to citizen petitions. Thus far, the Supreme Court has not yet ruled on whether or not the government must address citizen petitions for redress of grievances.

THE SECOND AMENDMENT

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.



Men trained in arms from their infancy, and animated by the love of liberty, will afford neither a cheap or easy conquest.

-From the Declaration of the Continental Congress, July 1775

Right to Bear Arms

The Second Amendment protects an individual's right to possess firearms and to use firearms in traditionally lawful purposes.

Why does it matter?

The Second Amendment has been one of the most controversial amendments to the Constitution. Advocates of gun rights and supporters of gun control have debated the true intent of the amendment for more than a century. In fact, the grammatical structure of the single complex sentence constituting the entirety of the Second Amendment has caused a multitude of complex issues. Opposing sides have divided the sentence in half, resulting in two theories on gun rights—states' rights and individual rights.

States' Rights

Those who support gun control argue that the first half of the amendment—*A well regulated Militia, being necessary to the security of a free State*—clearly indicates the framers' intent to ensure that individual states had armed citizens who could be called on to form militias for security purposes. Since ratifying the amendment, the National Guard has replaced the need for militias, and firearms are now provided to all service members. The states no longer depend on armed citizens for security, and so, the argument goes, the Second Amendment has become obsolete.

Individual Rights

On the other side of the argument, advocates of gun rights point out that, grammatically speaking, the first half of the amendment is merely a subordinate clause, and the second half—*the right of the people to keep and bear Arms shall not be infringed*—is the main clause, which gives meaning to the amendment as a whole. Gun rights' advocates argue that the right to bear arms was considered by the framers to be an additional safeguard against an overly powerful central government. According to this argument, the framers intended the First Amendment, particularly the freedom of speech and press, to reassure citizens that they would always have a meaningful outlet for opposing the government without resorting to violent resistance. Nevertheless, the Second Amendment provided additional insurance. Moreover, gun rights' advocates argue that the right to bear arms preserved the natural right to defend against the loss of life, limb, or liberty caused by the criminal acts of others.

What does it mean today?

In 2008, the U.S. Supreme Court officially denounced the states' rights argument. In *District of Columbia v. Heller*, the Supreme Court formally recognized the Second Amendment as protecting the right of individual citizens to possess firearms for lawful purposes without interference by the federal government. Then, in 2010, the Supreme Court “incorporated” the Second Amendment into the due process clause of the Fourteenth Amendment in order to protect an individual's right to bear arms from intrusion at the state level.

Still, the right to bear arms is not an unlimited right. Gun laws remain on the books in virtually every state as well as at the federal level. At this time, there is much debate about which laws will be upheld and which ones will be struck down as unconstitutional. The Supreme Court has made it known that certain regulations are acceptable, such as prohibitions on the possession of firearms by felons and the mentally ill, laws forbidding firearms in schools and government buildings, and rules requiring firearm dealers to apply and qualify for licensing.

It is unclear how courts will ultimately treat these and other restrictions. If recent trends are any indication, we will likely see clarification by the Supreme Court on the treatment of firearm regulations. In the meantime, lower courts are taking various approaches. Some courts are looking to see if a particular regulation unduly burdens an individual's ability to exercise the right. Such a burden exists if the regulation is overly severe or lacks a legitimate, rational justification. Other courts are allowing time, place, and manner restrictions similar to the limitations permitted on the freedom of speech.

Certainly one of the chief guarantees of freedom under any government, no matter how popular and respected, is the right of the citizens to keep and bear arms.... [T]he right of the citizens to bear arms is just one guarantee against arbitrary government and one more safeguard against a tyranny which now appears remote in America, but which historically has proved to be always possible.

-Hubert H. Humphrey



RIGHTS OF THE ACCUSED

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

-Amendment IV

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself...

-Amendment V

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

-Amendment VI

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

-Amendment VIII

The **Fourth Amendment** safeguards citizens from “unreasonable searches and seizures.” In other words, a police officer, government agent, or soldier cannot search a private home or take personal property without good cause. This protection is not guaranteed worldwide. In some countries, government agents raid homes, hold trials, or imprison people without allowing them to answer the charges against them.

If law enforcement officers in this country believe a crime has been committed and wish to conduct a related search, they must first request a search warrant from a court. A search warrant is a court order that allows limited exploration and inspection in an effort to obtain evidence in support of the crime alleged. Before a judge issues a search warrant, she must be convinced that the requested search, whether it is for a home, car, or other personal property, will likely lead to evidence of the crime.

In several ways, the **Fifth Amendment** protects the rights of those accused of crimes. It states that people cannot be tried for a serious federal crime without an indictment or other formal charge being filed against them by a group of citizens known as a grand jury. A grand jury consists of sixteen to twenty-three impartial citizens who review evidence against the accused. The grand jury may even compel witnesses to testify. Its work is done in secret to protect the identity of the accused and to ensure that the grand jury is not swayed by

outside forces. An indictment may only be issued if at least twelve grand jury members agree there is probable cause that a crime has been committed. Remember, a person indicted is not necessarily guilty of the crime. All accused people are innocent until they plead guilty or are proven guilty beyond a reasonable doubt in court.

The Fifth Amendment also protects people from double jeopardy, meaning a person accused of a crime and found not guilty cannot be put on trial again for that same offense. Moreover, the Fifth Amendment provides an accused person with the right to remain silent, as commonly uttered by police officers in television shows and movies as part of the Miranda warning. The Miranda warning is required to be read or recited to the accused following arrest to ensure that he is aware of his constitutional rights. The Fifth Amendment is intended to prevent innocent people from being threatened, tortured, or bullied into confessing to crimes they did not commit. The Fifth Amendment also provides that people cannot be forced to testify against themselves.

The **Sixth Amendment** provides additional due process rights to people accused of crimes. It requires that those accused be told the exact nature of the charges against them, and it guarantees them the right to a trial by a jury of their peers. The accused may also request to be tried by a judge alone. If an accused person requests a jury trial, the trial must be speedy and public, and the jurors must be impartial. Typically, the trial will be held in the same district where the crime was committed. Furthermore, the accused—or his lawyer—has the right to hear and question all prosecution witnesses and may also call witnesses for the defense. In addition, accused individuals are entitled to a lawyer, and the Supreme Court ruled in *Gideon v. Wainwright* (1963), that the government must provide a lawyer and pay the lawyer's fees if the accused cannot afford counsel.

Although the Sixth Amendment guarantees a speedy trial, sometimes it is months before a case can be heard. During that time, the accused will remain in jail unless the judge determines he is not a flight risk or a danger to the community or any person. In those instances, the accused may be set free if he agrees to abide by certain conditions or by posting bail, which is money used to secure the presence of the accused at future court hearings. The accused must attend all required hearings in order for the bail money to be returned; otherwise it will be forfeited to the government, and the accused could be returned to jail. The judge determines the amount of bail that must be posted in each case based on a number of factors, including the type of crime committed and the criminal record of the accused.

The **Eighth Amendment** also forbids the imposition of excessive fines and protects against cruel and unusual punishment. While Americans continue to debate what constitutes cruel and unusual punishment, it is generally agreed that the punishment should fit the crime. In other words, a convicted individual should not be sentenced to life in prison for stealing a candy bar. Still, the country remains divided on whether or not the death penalty should be permitted for serious crimes. State laws vary regarding the death penalty.

In Context

Many films, television shows, books, and songs highlight the evolution of the American justice system, including its tragedies and its triumphs. You may find the following examples informative, entertaining, and thought provoking. More examples can be found on Page 22.

Films

Twelve Angry Men (1957)
Focuses on the principle of innocent until proven guilty

Books

Uncle Tom's Cabin, by Harriet Beecher Stowe; focuses on the African-American underground railroad

OTHER AMENDMENTS IN THE BILL OF RIGHTS

*No soldier shall, in time of peace be quartered in any house,
without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.*

-Amendment III

...nor shall private property be taken for public use, without just compensation.

-Amendment V

*In suits at common law, where the value in controversy shall exceed twenty dollars,
the right of trial by jury shall be preserved, and no fact tried by a jury,
shall be otherwise re-examined in any Court of the United States,
than according to the rules of the common law.*

-Amendment VII

*The enumeration in the Constitution, of certain rights,
shall not be construed to deny or disparage others retained by the people.*

-Amendment IX

*The powers not delegated to the United States by the Constitution,
nor prohibited by it to the states, are reserved to the states respectively, or to the people.*

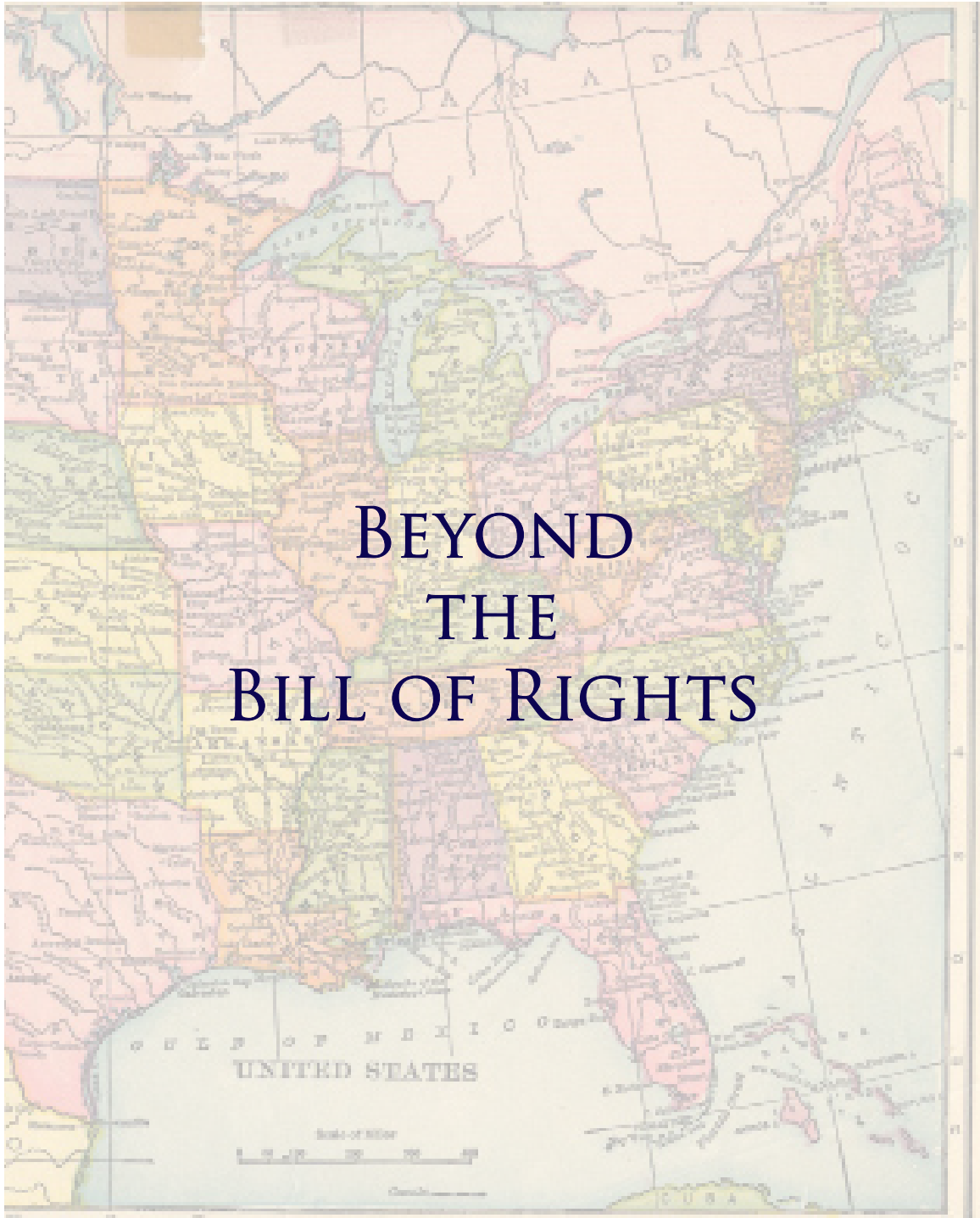
-Amendment X

The **Third Amendment** stems from the anger colonists felt when the King of England forced them to house military troops, even in times of peace. Although not a problem in recent times, the Supreme Court has held that the Third Amendment's prohibition against the quartering of soldiers "in any house in time of peace without the consent of the owner" is the foundation of the right to privacy. Thus, while the Constitution does not specifically provide for a right to privacy, the First, Third, Fourth, and Fifth Amendment create "zones of privacy" around a citizen's property and person.

The **Seventh Amendment** protects the right to a jury trial in most federal civil lawsuits. The right to a jury trial was especially important to the founders, who felt unfairly treated by the British government, which often forced colonists to be tried by a single military judge.

Both the **Ninth** and **Tenth Amendment** explain that if certain rights are not explicitly set forth in the Bill of Rights, they are retained by the people.

Finally, the **Fifth Amendment** also protects the property rights of citizens by limiting the government's power of eminent domain, which is the government's right to take private property (usually land) for public use. For example, if the government proposes to build a new highway where your house currently stands, the government may legally take the land, but it must pay you a fair price for that property.

A vintage, multi-colored map of the United States, showing state boundaries and major geographical features. The map is overlaid with a grid of latitude and longitude lines. The title "BEYOND THE BILL OF RIGHTS" is printed in a large, dark blue, serif font in the center of the map. At the bottom of the map, there is a scale bar and the text "Scale of Miles" and "UNITED STATES".

BEYOND THE BILL OF RIGHTS

RECONSTRUCTION ERA



The authors of the Declaration of Independence declared, “[w]e hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” While inspiring, these words are not law. In fact, when the Declaration of Independence was signed in 1776, disparate treatment was rampant among races, social classes, and genders; and since that time, virtually every race and nationality has fallen victim to discriminatory treatment at one time or another. To understand the development of liberty protections, however, we will focus here on the struggles of African Americans.

After the Revolutionary War, the founding fathers met again, this time to draft a constitution capable of guiding the new government in a way that would preserve the principles fought for during the war. Yet, the document they created—the Constitution—counted slaves as just three-fifths of a person and explicitly prohibited Congress from banning the importation of new slaves. Slavery went on to plague political debate for decades. By the 1850s, slavery had been eradicated in the northern states and the Northwest Territory but still thrived in the South. Then, in 1857, a decision by the Supreme Court, *Dred Scott v. Sandford*, intensified the division between the states and contributed to the start of the Civil War. According to the *Dred Scott* decision, blacks, whether enslaved or free, could not become U.S. citizens and, therefore, could never enjoy the constitutional rights and protections afforded citizens. Furthermore, the Supreme Court found slaves to be a property interest that could not be taken away by the government because of the Fifth Amendment’s due process promise against government deprivation of property.

The Civil War, which began in 1861 and ended in 1865, was fought over slavery as well as states’ rights. In the years that immediately followed the war, known as the Reconstruction Era, the Thirteenth, Fourteenth, and Fifteenth Amendment were added to the Constitution. Collectively referred to as the Civil War Amendments, these three additions reflected the victorious North’s position against slavery.

CIVIL WAR AMENDMENTS

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation.

-Amendment XIII

Thirteenth Amendment

The Thirteenth Amendment protects every person in America—all races and creeds, citizens and non-citizens, children and adults—from the bondage of slavery. It is unconstitutional for slavery to exist in any form or by any name.

Why does it matter?

The Thirteenth Amendment has ensured far more than an end to African-American slavery. Pursuant to that amendment, no people, regardless of race or other characteristic, may be forced into labor against their will. In other words, it is illegal for anyone to be forced into servitude via threats of serious harm, legal action, blackmail, or use of financial control. Because of the Thirteenth Amendment's guarantee against forced labor, courts generally refuse to require specific performance as a remedy for breach of a service contract. For example, if someone enters into a house-cleaning contract at a hotel but fails to follow through, the hotel may sue for breach of contract, but the court most likely will impose financial damages rather than order the individual to complete the house-cleaning tasks.

What does it mean today?

The Thirteenth Amendment paved the way for modern day civil rights. Following the civil rights movement of the 1950s and 1960s, the Supreme Court validated Congress' power under the Thirteenth Amendment to enact civil rights legislation that prohibited private racial discrimination. In *Jones v. Alfred H. Mayer Company* (1968), a real estate developer refused to sell housing or property to African Americans. A black couple sued the developer under a federal law mandating all U.S. citizens the same property rights as white citizens. The Supreme Court upheld the law, ruling that Congress has the power to enact laws that directly affect the acts of individuals, thereby making the Thirteenth Amendment the first and only constitutional provision applicable to private citizens as well as to the state and federal government.



CIVIL RIGHTS MOVEMENT

I say to you today, my friends, that in spite of the difficulties and frustrations of the moment I still have a dream. It is a dream deeply rooted in the American dream.

I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident; that all men are created equal."

I have a dream that one day even the state of Mississippi, a desert state sweltering with the heat of injustice and oppression, will be transformed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

I have a dream today.

I have a dream that one day the state of Alabama, whose governor's lips are presently dripping with the words of interposition and nullification, will be transformed into a situation where little black boys and black girls will be able to join hands with little white boys and white girls and walk together as sisters and brothers.

I have a dream today.

I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low, the rough places will be made plains, and the crooked places will be made straight, and the glory of the Lord shall be revealed, and all flesh shall see it together.

-Dr. Martin Luther King, Jr.



Why does it matter?

Although amendments to the Constitution after the Civil War guaranteed equal rights to all Americans, many U.S. citizens—especially African Americans—still experienced discrimination and segregation on a wide scale. Southern states passed "Jim Crow" laws, which required African Americans and white people to be separated in most public places, such as schools or restaurants. African Americans had to ride in the back of buses and use separate public restrooms. In the North, African Americans could vote, and segregation was less noticeable, but prejudice still restricted opportunities for them.

From an early time, many Americans objected to the unfair treatment of African Americans, and in 1909, a group of African Americans and whites founded the National Association for the Advancement of Colored People (NAACP). The association mainly worked through the courts to challenge laws and customs that denied African Americans their constitutional rights. In 1910, other concerned citizens formed the National Urban League to help African Americans find jobs and improve their opportunities. These and other groups built a civil rights movement supported by millions of people across the United States.

In 1948, President Harry Truman ordered an end to segregation in the nation's armed forces; and in 1954, the Supreme Court ruled in favor of NAACP lawyers in *Brown v. Board of Education*, deeming racial segregation in

public schools unconstitutional under the Fourteenth Amendment's equal protection principle. In the 1950s, Dr. Martin Luther King, Jr., a Baptist minister and a central leader in the civil rights movement, inspired others to join the movement through marches, boycotts, and demonstrations that expressed non-violent resistance to and peaceful protest of discriminatory laws and practices. Some African-American students participated in "sit-ins" at lunch counters reserved for white people, while other African Americans, along with many white citizens, teamed up as "Freedom Riders" to ride buses together throughout the South to protest segregation.

On August 23, 1963, more than 200,000 people marched in Washington to demand equal rights regardless of skin color. On that day, Martin Luther King, Jr., a superb orator, declared in his famous "I Have a Dream" speech, "I say to you today, my friends, that in spite of the difficulties and frustrations of the moment, I still have a dream. It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up and live out the true meaning of its creed: 'We hold these truths to be self-evident; that all men are created equal.' I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character..."

Finally, in 1964, Congress listened to the demands of the people and passed the Civil Rights Act, which prohibited discrimination in public facilities, employment, education, and voter registration based on race, color, gender, religion, and national origin. Then in 1965, the Voting Rights Act was enacted, further ensuring that minorities gained equal access to the polls.

What does it mean today?

The struggle to eliminate prejudice and gain equal rights for all continues to this day. Every year, the federal government receives more than 75,000 complaints regarding workplace discrimination, and the number of hate crimes (bias-motivated crimes) reported is an estimated 7,500—or one nearly every hour of the day.

Hate crimes not only harm individuals, they also intimidate members of the victim's community and other communities historically hurt by hate. If you or someone you know is a victim of a hate crime because of race, religion, ethnicity, national origin, gender, gender identity, or sexual orientation, it is important to report the crime to the local police department as soon after the incident as possible. Also document as many details of the crime as possible, especially the physical description of the perpetrator.

When filing a complaint, don't forget to note the police officer's name and badge number as well as the case number. Ask about financial compensation for the damages incurred during the incident. Finally, request a copy of the police report and make certain the incident is noted as a hate crime.

Local FBI offices can assist in investigating hate crimes. For more information about hate crimes and how to report them, go to http://www.fbi.gov/about-us/investigate/civilrights/hate_crimes/hate_crimes, or call the Hate Crime National Hotline at 206-350-HATE (4283).

The U.S. Attorney's Office handles cases related to hate crimes, housing discrimination, employment discrimination, or other forms of discrimination based on a person's national origin, race, color, religion, disability, sex, and familial status. Find more information about the Department of Justice's civil rights efforts at <http://www.justice.gov/crt>.



THE FIFTH & FOURTEENTH AMENDMENT

No person shall...be deprived of life, liberty, or property, without due process of law...

-Amendment V

*...nor shall any state deprive any person of life, liberty, or property, without due process of law;
nor deny to any person within its jurisdiction the equal protection of the laws.*

-Amendment XIV



Equal Protection

The Equal Protection Clause of the Fourteenth Amendment forbids states from treating individuals differently based on unalterable characteristics, such as race, nationality, and gender. The Supreme Court has imposed the same obligation on the federal government through the Fifth Amendment.

Segregation within the states was widespread even after the ratification of the Fourteenth Amendment. In 1896, “separate but equal” racial segregation was declared permissible under the Fourteenth Amendment in *Plessy v. Ferguson*. Homer Plessy, who was one-eighth black, boarded a “white patrons only” train car as an act of civil disobedience against a Louisiana law forbidding blacks from sitting in cars others than those designated for use by the “colored.” In that case, the U.S. Supreme Court decided a law separating races was constitutional so long as facilities of equal quality were made available to all. The railway cars were found to be of equal quality, and the Louisiana law was upheld. The Plessy decision provided momentum for further racial segregation.

Despite the mandate of “separate but equal,” many separated facilities were far from equal in practice. The Supreme Court acknowledged those vast disparities in 1954 in *Brown v. Board of Education*, which effectively threw out the *Plessy v. Ferguson* decision. In that case, thirteen parents argued on behalf of their twenty children that a school system of racial separation perpetuated psychological and social disadvantages in addition to inferior accommodations, services, and treatment despite equal buildings, transportation, and teacher qualifications. The Supreme Court agreed with the parents, declaring “separate educational facilities inherently

unequal” and a violation of equal protection. Even though the *Brown* decision was limited to desegregation of public schools, it still is regarded as a monumental step in the civil rights movement.

More recent equal protection cases question the legality of affirmative action, the policy that calls for selection of under-represented and minority applicants in order to increase diversity in organizations. Those who oppose affirmative action argue that it results in unfair treatment of some applicants on the basis of race and gender, particularly white males. The Supreme Court agreed that the equal protection clause protects all races, genders, and nationalities, not merely minorities. Therefore, strict affirmative action in the form of quotas has waned, although some affirmative action practices are still allowed in some circumstances in limited scope because of the larger public policy goal of increasing opportunities to groups of people traditionally oppressed.



Voting for Voter I.D.s

Among other things, the equal protection clause has been cited in arguments regarding voting rights. In 2008, an Indiana law requiring voters to show photo identification when voting in person was upheld by the U.S. Supreme Court against equal protection challenges. It was argued that the law deterred voting by low-income people, who often struggle to acquire proper identification. The Supreme Court decided, however, that the burden on voters was minimal and did not outweigh the state’s interest in preserving the integrity of the electoral system by reducing voter fraud.

It remains unclear if circumstances exist that might make an individual’s right to vote so burdened by the need to get identification that the Supreme Court will find the statute a violation of the equal protection clause. Such a case will have to be brought on behalf of the burdened individual specifically and not as a general challenge to the statute itself.

Japanese Internment

Although the Fourteenth Amendment, passed shortly after the Civil War, required every state to grant “equal protection of the laws” for “all persons born or naturalized in the United States,” there are numerous cases in American history that involve citizens who were not treated fairly because of their race, gender, or disability. For example, in the first half of the 20th century, a wave of anti-Japanese prejudice flooded California because of the growing number of Japanese immigrants. As a result, during World War II, when many Americans feared a Japanese invasion, others began to wonder if U.S. residents of Japanese descent, including Japanese-American citizens, might be more loyal to Japan than to the U.S.

Succumbing to public pressure surrounding that fear, President Franklin Roosevelt issued Executive Order 9066, with the approval of Congress, to protect the nation “against espionage and against sabotage” during war time. The order authorized the U.S. War Department to declare sections of the West Coast “military zones” and restrict movement in those areas. Soon after, Lt. General John L. DeWitt, Military Commander of the Western Defense Command, handed down an order directing people of Japanese ancestry who lived in those areas to stay in their homes from 8:00 p.m. to 6:00 a.m. Then he ordered all people of Japanese descent in an area known as “Military Area One” to go to an “assembly” center. From the assembly center, many were sent to internment camps, where they were forced to remain until otherwise directed by the military. Some Japanese Americans were incarcerated for as long as four years. About 112,000 people were affected by these orders, and the majority of them (70,000) were American citizens, including many senior citizens and children.

Significant legal decisions arose out of the Japanese-American internment. In *Korematsu v. United States* (1944), Korematsu's lawyers argued that removing a U.S. citizen from his residence based solely on race was unconstitutional because it violated the "equal protection" clause of the Fourteenth Amendment. It also was argued that the action violated the "due process" clause of the Fifth Amendment since Korematsu was never given a hearing or shown evidence regarding his alleged disloyalty, unlike Americans of German and Italian ancestry, who were afforded those rights, even though their countries of origin also were enemies of the United States during the war. Even so, the Supreme Court ruled in favor of the government. It found internment and the actions surrounding it constitutional and upheld the conviction of Fred Korematsu, an American citizen of Japanese descent, for failing to report to an assembly center as ordered by the U.S. military.



While Japanese internment was never ruled unconstitutional, President Ford rescinded Executive Order 9066 in 1976, and Congress repealed Public Law 503 in 1980, when it created a commission to study the internment. The commission held hearings and ultimately declared that the U.S. had committed "a grave injustice" against Japanese people living in the U.S. during World War II. In 1988, Congress passed a statute acknowledging that the "basic civil liberties and constitutional rights of those individuals of Japanese ancestry interned were fundamentally violated by that evacuation and internment." Congress also provided up to \$20,000 in compensation to each person who had been confined, relocated, or otherwise deprived of property or liberty as a result. Overall, the U.S. government has disbursed more than \$1.6 billion in reparations to interned Japanese Americans or their heirs.

Former Supreme Court Justice Tom C. Clark, who represented the U.S. Department of Justice in the "relocation," wrote in the epilogue to the 1992 book [Executive Order 9066: The Internment of 110,000 Japanese Americans](#), "The truth is—as this deplorable experience proves—that constitutions and laws are not sufficient of themselves.... Despite the unequivocal language of the Constitution of the United States that the writ of habeas corpus shall not be suspended, and despite the Fifth Amendment's command that no person shall be deprived of life, liberty or property without due process of law, both of these constitutional safeguards were denied by military action under Executive Order 9066." As this episode in history illustrates, constitutions and laws are only effective when citizens are civically engaged and hold their elected representatives accountable for their actions.



No Need to Apply

Fred Korematsu (see above article) was a U.S. citizen because he was born here, but Japanese people who were born in Japan and living in the U.S. had no avenue for becoming American citizens for many years. U.S. immigration laws prohibited people from certain countries from attaining citizenship through naturalization. In *Ozawa v. United States* (1922), the Supreme Court ruled that Japanese people were not eligible for U.S. citizenship because they were not "free white persons," "aliens of African nativity," or "persons of African descent." That decision led to the Johnson-Reed Act of 1924, which banned Japanese, Chinese, and other Asian immigrants from becoming U.S. citizens. The laws prohibiting Asian immigrants from becoming U.S. citizens were repealed in the 1940s.



Immigration & Citizenship

- 1600-1800 During this period, most “settlers” in the new world were poor Protestants from the British Isles, who came here freely. Others were forcibly brought here as slaves, primarily from Africa.
- 1790 Congress passed the Naturalization Act, which offered U.S. citizenship to “free white persons” who resided in the country for two years and willingly renounced allegiance to their former homeland.
- 1808 Congress prohibited the further importation of slaves, causing a new demand for laborers.
- 1820-1880 Mass immigration occurred due to the Irish potato famine, crop failures in Germany, and failed European revolutions. Catholics arrived in great numbers, prompting fear among Protestant Americans. That fear spawned the Know Nothings, a political party that pushed an anti-immigration and anti-Catholic agenda.
- 1848 The end of the Mexican War resulted in the extension of citizenship to about 80,000 Mexican residents of the Southwest, although they were denied the right to vote for years.
- 1849 The California Gold Rush and the labor needs that arose from it, particularly the expansion of the railroad, spurred immigration from China, although many European settlers resented the influx of these “foreigners.”
- 1862 Congress passed the Anti-Collie Act, which discouraged Chinese immigration and taxed employers who hired Chinese.
- 1865 After the Civil War, steam transportation made it easier for people from eastern and southern Europe to travel to the United States. Among others, close to three million Jews made their way to America. Unlike earlier immigrants, who gravitated toward rural areas to establish farms, post-war immigrants primarily settled in cities.
- 1870 Congress bowed to pressure from wealthy, white, native-born settlers and amended the Naturalization Act to limit citizenship to “white persons and persons of African descent,” intentionally barring Asians.
- 1870 The 15th Amendment was ratified, ensuring rights to “citizens” regardless of race, color, or previous condition of servitude.
- 1875 Congress passed this country’s first immigration law, known as the Page Act. It prohibited entry into the U.S. by “undesirables,” including felons, prostitutes, and anyone coming from Asia as a contract laborer.
- 1882 Congress passed the Chinese Exclusion Act, which restricted Chinese immigration in addition to denying Chinese the opportunity to become American citizens.
- 1907 The Gentleman’s Agreement restricted the migration of Japanese people to America.
- 1917 Over President Woodrow Wilson’s veto, Congress enacted the Barred Zone Act, which further limited immigration from Asia. It also established a literacy requirement for immigrants.
- 1921-1924 Congress passed legislation limiting the number of immigrants entering the U.S. annually and establishing entry quotas based on national origin. Immigrants from northern and western Europe were awarded easy access, while those from eastern and southern Europe were greatly restricted. All immigrants from Asia were denied entry.
- 1924 American Indians were granted U.S. citizenship.
- 1924 Congress passed the Johnson-Reed Act, which banned all Asian immigrants from becoming U.S. citizens.
- 1924-1954 The Western Hemisphere was exempt from the quota system, prompting easy movement between the U.S. and Mexico, the Caribbean, and other parts of Central and South America. During this period, the U.S. also began to admit refugees on a case-by-case basis, many coming to escape war in their homeland.
- 1939-1954 During this time, hundreds of thousands of documented and undocumented Mexican immigrants and American citizens of Mexican descent were deported against their will through a federal campaign.
- 1940s The laws prohibiting Asian immigrants from becoming U.S. citizens were repealed.
- 1944 The Supreme Court upheld the internment of Japanese Americans during World War II.
- 1965 Congress enacted the Hart-Celler Act, which did away with the immigration quota system, replacing it with “preference categories” based on family relationships and job skills. Moreover, Mexican immigration was restricted for the first time.



Due Process

The due process clauses in the Constitution protect all people, both citizens and non-citizens, by requiring both state and federal governments to follow procedural mechanisms when attempting to take an individual's life, liberty, or property.

However imperfect due process, it has a protective faculty which cannot be removed without destroying it. It is the natural enemy and the unyielding foe of tyranny, whether popular or otherwise. As long as due process subsists, courts will put in despotism's path a resistance, more or less generous, but which always serves to contain it. There is in due process something lofty and unambiguous which forces judges to act respectably and follow a just and orderly course.

-Benjamin Constant

Procedural Due Process

Pursuant to the due process clause in the Fifth and Fourteenth Amendment, government entities, including state and federal agencies, must follow certain procedures before taking action that affects an individual's life, liberty, or property. Those procedures allow an individual the opportunity to be heard and thereby influence the outcome of the government's action. They also serve as a safeguard against unfair deprivation. More than a century of Supreme Court decisions have helped define when an individualized proceeding is required, what constitutes protected liberty and property interests, and what processes must be in place for a fair procedure.

The Fifth and Fourteenth Amendment enumerate life, liberty, and property as interests worthy of due process protection. Criminal proceedings resulting in imprisonment or capital punishment are the most frequent government actions that may lead to deprivation of life. In fact, the procedural due process requirements in criminal cases are so important that most were made part of the Constitution itself, including the right to a jury trial, the right to counsel, and the right against self-incrimination, among others.

On the other hand, defining liberty and property interests and clarifying appropriate procedures when those liberties are at stake have largely been left to the courts. Liberty has been broadly defined to include rights recognized as essential to the pursuit of happiness, such as the right to contract, marry, establish a home, bring up children, worship, and acquire knowledge. Property, too, has been broadly defined. It includes traditional forms of property, such as money, real estate, and tangible personal assets, in addition to entitlements, such as licenses, welfare benefits, and government employment.

Procedural due process generally requires the government to provide notice and a hearing whenever a liberty or property interest is at stake. Sometimes a full, adversarial hearing is required. In other instances, notification with an opportunity to respond may suffice. Courts determine the exact requirements for a particular situation after considering the nature of the interest at stake, whether a particular procedure includes sufficient safeguards to prevent an erroneous deprivation, and the burden of the procedure on the government.



They Exercised Their Rights

The Supreme Court has found individuals have a liberty interest in attending public schools. As such, an attempt to deprive someone of this interest through suspension or expulsion triggers due process protection. A suspension based on disciplinary reasons lasting ten days or less requires the school to provide an opportunity for the student to explain his or her side of the story before implementing the suspension. A suspension lasting longer than ten days may require a more formal hearing.

On April 12, 2011, the U.S. Department of Justice’s Civil Rights Division and the Department of Education’s Office for Civil Rights reached a settlement agreement with the school district in Owatonna, Minnesota, to resolve an investigation into the race and national origin harassment of Somali-American high school students. In that case, white American and Somali-American students who were caught fighting were disciplined disproportionately, with the Somali-American students receiving much greater sanctions. As a result, they and their parents filed a complaint, alleging discrimination. School officials ultimately agreed to a settlement that included policy changes and training, among other things.

More Context

The following are additional films, books, and songs that highlight the evolution of the American justice system. (Also see Page 10.)

Films

To Kill a Mocking Bird (1962)

Focuses on the rights of the accused

All the President’s Men (1976)

Focuses on the freedom of press

Gideon’s Trumpet (1980)

Based on the true story of the man who prompted the right to counsel

Dead Man Walking (1995)

Based on a true story regarding the death penalty

Ruby Bridges (1998)

Based on a true story regarding school integration

Books

The Innocent Man, by John Grisham;

based on the true story regarding the fight to overturn a murder conviction of an innocent man

The Chamber, by John Grisham;

focuses on the death penalty

Music

Living for the City, by Stevie Wonder

Blowin’ in the Wind, by Bob Dylan

The Times They are a Changin’, by Bob Dylan

We Shall Overcome, by Pete Seeger

VOTING RIGHTS

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

-Amendment XIX

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representatives in Congress, shall not be denied or abridged by the United States or any state by reason of failure to pay any poll tax or other tax.

-Amendment XXIV

The right of citizens of the United States, who are 18 years of age or older, to vote shall not be denied or abridged by the United States or by any state on account of age.

-Amendment XXVI

The Right to Vote

The right to vote in open, fair, and transparent elections is one of the defining elements of a representative republic. The power to vote is the power to articulate individual desires for the future of the country and, by doing so, change the direction of government.

While contemporary Americans view voting as an inherent political right, that right was extended only to white, property-owning males for the country's first century. Women, African Americans, Native Americans, many immigrants, and the indigent were not allowed to express their political desires by casting ballots in early elections.

Following the Civil War, black males were extended the right to vote by ratification of the Fifteenth Amendment. Even so, black citizens continued to face violence and intimidation at the polls. They faced more obstacles because of southern Jim Crow laws, which required voters to pass literacy tests and pay poll taxes that effectively prevented African Americans from casting ballots for the next century.

It was not until the civil rights movement of the 1950s and 1960s that African Americans, especially in the South, were fully able to exercise their fundamental right to vote. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 were the crowning achievements of the civil rights movement.



The Voting Rights Act provided federal regulations and enforcement mechanisms to protect black citizens and other minority groups from the “denial or abridgement of the right to vote on account of race or color through voting qualifications or prerequisites.” In addition to the Voting Rights Act, the **Twenty-fourth Amendment**, ratified in 1964, strictly prohibited the use of poll taxes in elections for federal offices. The Civil Rights Act outlawed literacy tests for voting purposes.

Women were denied the right to vote until ratification of the **Nineteenth Amendment** in 1920. That amendment was passed as a result of direct pressure from the women’s suffrage movement. Members of the movement were very active in the struggle to end slavery. When former slaves won the right to vote ahead of them, the suffragettes were crushed. Yet, they persevered and finally were given a political voice.

In 1883, Susan B. Anthony, a leader in the women’s suffrage movement, was tried and convicted of voting in the presidential election of 1882. During her trial, Anthony was denied the right to testify on her own behalf. Moreover, the judge wrote his decision before the trial began and then ordered the jury to return a guilty verdict. She was fined \$100. Anthony refused to pay, but no further action was taken against her. Initially, upon her arrest, Ms. Anthony made a speech wherein she stated—

Friends and fellow citizens: I stand before you tonight under indictment for the alleged crime of having voted in the last presidential election, without having a lawful right to vote. It shall be my work this evening to prove to you that in thus voting, I not only committed no crime but, instead, simply exercised my citizen’s rights, guaranteed to me and all United States citizens by the national Constitution, beyond the power of any state to deny.



The preamble to the Federal Constitution says: “We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessing of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”

It was “We, the people” not “We, the white male citizens”; nor yet, “We, the male citizens”; but “We, the whole people,” who formed the Union. And we formed it, not to give the blessings of liberty, but to secure them—not to the half of ourselves and the half of our posterity, but to the whole people—women as well as men. And it is a downright mockery to talk to women of their enjoyment of the blessings of liberty while they are denied the use of the only means of securing them provided by this democratic-republican government—the ballot....

The only question left to be settled now is: are women persons? And I hardly believe any of our opponents will have the hardihood to say they are not. Being persons, then, women are citizens; and no state has a right to make any law, or to enforce any old law, that shall abridge their privileges or immunities. Hence, every discrimination against women in the constitutions and laws of the several states is today null and void, precisely as is every one against Negroes.

Susan B. Anthony died in 1906, fourteen years before the ratification of the Nineteenth Amendment to the U.S. Constitution.

The **Twenty-sixth Amendment**, passed in 1971, extended the right to vote to all citizens eighteen years of age and older. Prior to passage of that amendment, many of the men drafted to serve in the military during the Vietnam War did not have the power to vote.



Other Resources

U.S. Citizenship & Immigration Services (USCIS) - Study Materials for the Civics Test
<http://go.usa.gov/ZeN>

Center for Civic Education - We the People
<http://new.civiced.org/>

Center for Democracy & Citizenship - Public Achievement
<http://www.augsburg.edu/democracy/index.html>

iCivics
<http://www.icivics.org>

The Nation's Report Card
http://nationsreportcard.gov/civics_2010/

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“Our Constitution is a covenant running from the first generation of Americans to us and then to future generations. It is a coherent succession. Each generation must learn anew that the Constitution’s written terms embody ideas and aspirations that must survive more ages than one.”

-Justices O’Connor, Kennedy, and Souter