

Civil Rights and Civil Liberties

Civil Rights and Civil Liberties:

What five rights are guaranteed by the Fifth Amendment?

The Fifth Amendment states the rights of the accused, including the right to a grand jury, the right to be protected from double jeopardy, the right to eminent domain, the right not to incriminate oneself, and the right of due process of law.

Civil Rights and Civil Liberties:

How has the freedom of religion in the schools been interpreted by the Supreme Court?

The Court has interpreted the establishment clause of the First Amendment to mean different things at different times. In *Everson v. Board of Education* (1947), the Court ruled that parochial school children could be bussed to school; in *Engle v. Vitale* (1962) the Court banned school prayer; and in *Westside School District v. Mergens* (1990) the Court ruled that school facilities can be used for nonexclusive religious organizations after school hours.

Civil Rights and Civil Liberties:

What is the role of the police in protecting the rights of the accused, as guaranteed by the Fifth and Sixth Amendments to the Constitution?

In the 1966 case *Miranda v. Arizona*, the Supreme Court decided that when police arrest a suspect they must inform the suspect of his or her constitutional rights to remain silent and to consult with an attorney. Through this decision, the Court hoped to alleviate what they perceived to be "the inherent pressures of the interrogation atmosphere."

Civil Rights and Civil Liberties:

How was the protection against unreasonable search and seizure incorporated by the Supreme Court under the 14th Amendment?

In the 1949 case, *Wolf v. Colorado*, the Supreme Court applied the protections against unreasonable search and seizure to the states under the due process clause of the 14th Amendment.

Civil Rights and Civil Liberties:

What is the difference between substantive due process and procedural due process?

The 5th and the 14th Amendments guarantee due process, which is the idea that the government must act in a fair manner according to established rules. Substantive due process involves determining whether a law is fair or if it violates constitutional protections. Procedural due process is the method of government action or how the law is carried out.

Civil Rights and Civil Liberties:

What are the two protections of freedom of religion guaranteed by the First Amendment?

The establishment clause protects individuals from the state establishment, sponsorship, or favoritism of an official national religion. In the free exercise clause, citizens are permitted to practice their individual religions in any way they choose, so long as these practices and rituals do not endanger society and do not break the laws of the community.

Civil Rights and Civil Liberties:

What amendments were passed following the Civil War to ensure the rights of former slaves?

The 13th Amendment abolished slavery. The 14th Amendment defined citizenship and provided for due process and equal protection of the laws. The 15th Amendment stated that individuals could not be denied the right to vote based on race or former servitude.

Civil Rights and Civil Liberties:

How have civil liberties and civil rights evolved over time?

The Declaration of Independence, the Constitution, and the Bill of Rights set out the basic foundations for the protections of civil liberties and civil rights. These rights have evolved through legislative action and judicial interpretation and through the addition of later amendments, specifically the 14th Amendment.

Civil Rights and Civil Liberties:

What is the strict scrutiny test?

The Supreme Court has devised a strict standard for laws and for detecting laws that display prejudice. The Court automatically classifies a law as suspect and demands that the government prove it has a compelling reason for the discrimination. The law in question must serve a compelling public interest in order for the Court to uphold it has valid and non-discriminatory.

Civil Rights and Civil Liberties:
What did the Americans with Disabilities Act of 1990 accomplish?

The 1990 Americans with Disabilities Act (ADA) forbids employers and owners of public accommodations from discriminating people with disabilities. States now are required to make all public buildings wheelchair accessible, and make sure that all public services provide equal access to all persons.

Civil Rights and Civil Liberties:
Which of the rights guaranteed under the Bill of Rights have been incorporated by the 14th Amendment to apply to the states?

The 1st, 4th, 6th and 8th Amendments have been fully incorporated. The 5th Amendment has been partially incorporated and the 2nd and 7th Amendments have not been incorporated. No decision has been reached on the 3rd Amendment.

Civil Rights and Civil Liberties:
What is procedural due process?

The due process clause of the 14th Amendment, adopted in 1868, states that before a convict can be executed, imprisoned or fined for a crime, he or she must get a fair trial, based on legitimate evidence, with a jury. These are procedural or process rights.

Civil Rights and Civil Liberties:
What is the rational basis test?

The Supreme Court, in defining discrimination under the 14th Amendment, has recognized that some forms of discrimination may be valid. The rational basis test determines if the discrimination in question has a legitimate purpose, such as legislation that denies liquor to people under the age of 21.

Civil Rights and Civil Liberties:
What is substantive due process?

If a court decides that a law is unreasonable, it rules that the law violates substantive due process. Substantive rights are those general rights that individuals have to possess or to do certain things, despite the government's desire to the contrary. These are rights like freedom of speech and religion.

Civil Rights and Civil Liberties:

What are gag orders, and are they legal?

Gag orders are restrictions placed on the press by judges trying to ensure a fair trial. The Supreme Court, ruling unanimously in *Nebraska Press v. Stuart* (1976), found that gag orders violate the First Amendment.

Civil Rights and Civil Liberties:

What is the name of the judicial concept that has been used to apply the protections of the 14th Amendment to the states?

The debate over whether the 14th Amendment makes all of the protections of the Bill of Rights applicable to the states is one of the most important and longest-lasting debates involving interpretation of the U.S. Constitution. This debate is known as the incorporation doctrine, and is ongoing.

Civil Rights and Civil Liberties:

What is the right of expressive association?

In *Boy Scouts of America v. Dale* (2000), the Supreme Court ruled that forcing the Boy Scouts to admit a homosexual as a scout leader would violate the private organization's right of freedom of association. This is the right of expressive association.

Civil Rights and Civil Liberties:

What is the doctrine of incorporation?

The Supreme Court uses the 14th Amendment to apply the protections of the Bill of Rights to the states. For example, in the 1925 case of *Gitlow v. New York*, a man was indicted by the state for seditious speech. The Court found that the federal protection of free speech should be applied to the states.

Civil Rights and Civil Liberties:

What specific rights and prohibitions are mentioned in the body of the Constitution?

The Constitution mentions the writ of habeas corpus, the protection of citizens from state to state, limits on excessive punishment, guarantee of republican government, and trial by jury in federal courts. It forbids bills of attainder, ex post facto laws, and religious oath requirements.

Civil Rights and Civil Liberties:
How have the rights of disabled persons been protected by law?

In 1990, the Americans With Disabilities Act (ADA) was passed, which states that disabled persons may not be denied employment or promotion, equal access to government programs and transportation, or access to public accommodations.

Civil Rights and Civil Liberties:
Do public school students enjoy the same protections as adults with regard to the 4th Amendment protection against unreasonable search and seizure?

No. The Supreme Court found in *New Jersey v. T.L.O.* (1985) that the 4th Amendment does not apply to students in schools because they do not and should not have the rights afforded to adults in the criminal justice system. The school can conduct searches without a warrant in the interest of protecting students and maintaining order.

Civil Rights and Civil Liberties:
How has procedural due process been defined by the courts?

Miranda v. Arizona (1966) established that the rights of an accused person must be read and understood by that person upon arrest. These rights include the right to remain silent and the right to have an attorney provided.

Civil Rights and Civil Liberties:
What are the rules regarding religious clubs or organizations that meet in public schools?

The Supreme Court found in *Good News Club v. Milford Central School* (2001) that religious clubs are allowed to meet in public schools after class hours. Excluding the religious club was unconstitutional content-based discrimination, and permitting the meetings would not violate the establishment clause.

Civil Rights and Civil Liberties:
What precedent was set by *Gideon v. Wainwright*?

The 1963 decision set the precedent that in capital cases, when a defendant is too poor to hire a lawyer, the state must provide an attorney for the defendant in order to assure a fair trial.

Civil Rights and Civil Liberties:
What is symbolic speech?

Symbolic speech refers to unspoken illustrated methods of protest. Similar to pure speech, it is protected when it does not incite violence or cause a clear and present danger to public welfare?

Civil Rights and Civil Liberties:
What is the difference between de jure and de facto segregation?

After the decision in *Brown v. Board of Education* (1954), the law regarding the segregation of schools clearly changed. De jure segregation, or legally binding segregation, was ruled unconstitutional. However, states continued to segregate schools through the use of drawing school district lines so as to produce single race school districts, creating de facto segregation.

Civil Rights and Civil Liberties:
Do students have reasonable expectations as to the right to privacy with regard to drug testing in schools?

No. In *Veronia v. Acton* (1995) the Supreme Court decided students must submit to random drug testing in order to participate in interscholastic athletics. The Court found that the policy is reasonable and constitutional. Students in a school environment "have a lesser expectation of privacy than members of the population generally."

Civil Rights and Civil Liberties:
What five rights are guaranteed by the Sixth Amendment?

The 6th Amendment rights are trial rights, including the right to a speedy trial, the right to an attorney, the right to face the witnesses against you, the right to a trial by jury and the right to know the charges against you.

Civil Rights and Civil Liberties:
What are the differences between civil rights and civil liberties?

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 equal protection under the laws.

Civil Rights and Civil Liberties:
How have the rights of homosexuals been protected under the 14th Amendment?

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 as it violated the equal protection clause of the 14th Amendment. In *Lawrence v. Texas* (2003), the Supreme Court found that laws prohibiting homosexual conduct also violate the clause.

Civil Rights and Civil Liberties:
When was the voting age lowered to 18?

The 26th Amendment was passed in 1971, giving 18 year-olds the right to vote in the 1972 election for the first time.

Civil Rights and Civil Liberties:
What is sexual harassment?

The Supreme Court has held that harassment can take two forms. First, it is illegal for someone to request sexual favors as a condition of employment or promotion. Second, an employer cannot permit a work environment that has been made hostile or intimidating by a steady pattern of offensive sexual teasing, jokes or obscenity.

Civil Rights and Civil Liberties:
What did the Civil Rights Act of 1964 accomplish?

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 Equal Employment Opportunity Commission.

Civil Rights and Civil Liberties:
Are students in public schools granted the right of freedom of press?

No. The U.S. Supreme Court in *Hazelwood School District v. Kuhlmeier* (1988) upheld the right of public high school administrators at Hazelwood East High School to censor stories from a school-sponsored student newspaper if the newspaper was produced on school grounds, using school equipment and under the guidance of a school advisor.

Civil Rights and Civil Liberties:
Is **not** saying the Pledge of Allegiance
in school constitutional protected
freedom of speech?

Yes. In *West Virginia State Board of Education v. Barnette* (1943) the Court ruled that the West Virginia Board's policy requiring students and teachers to recite the Pledge of allegiance to be unconstitutional. However, individual communities, and even individual schools, have set their own policies regarding this very controversial issue.

Civil Rights and Civil Liberties:
What does the 8th Amendment
prohibit?

The 8th Amendment prohibits excessive bail, excessive fines, and cruel and unusual punishment for crimes.

Civil Rights and Civil Liberties:
How has affirmative action been
interpreted by the Supreme Court?

In *Bakke v. Regents* (1978), the Court found that Alan Bakke had been denied equal protection by UC Davis's use of a two-track admission system. In *Grutter v. Bollinger* (2003), the University of Michigan Law School's more individualized consideration of race was upheld. In *Gratz v. Bollinger* (2003) the Court struck down the University of Michigan's more blatant weighting of race as a factor in admissions.

Civil Rights and Civil Liberties:
What was Chief Justice Warren's
reasoning in *Brown v. Board of Education*?

Warren found that "in the field of public education the doctrine of 'separate but equal' has no place" because "'separate but equal' facilities are inherently unequal." *Plessy v. Ferguson* (1896) was overturned, and the age of segregated schools was slowly coming to a close.