

**Lecture #8: Civil Liberties (vs. Civil Rights and Human Rights)**

## I. Human Rights, Civil Rights and Civil Liberties

- A. Human Rights Defined: Life free from physical suffering.
  - 1. 8<sup>th</sup> Amendment (“no cruel and unusual punishment”)
  - 2. 13<sup>th</sup> Amendment: No Slavery
- B. Civil Liberties: Constitutional protections against the government
- C. Civil Rights: Equal treatment/Equal protection of/by law specified by the due process clause of the 14<sup>th</sup> Amendment.

## II. Civil Rights

- A. 14<sup>th</sup> Amendment (1868)
- B. 15<sup>th</sup> Amendment (1870); 24<sup>th</sup> Amendment (1964)
- C. Civil Rights Act (1965); Voting Rights Act (1965) and Fair Housing Act (1968)
- D. *Dred Scott* (1857); *Plessy v. Ferguson* (1897); *Brown v. Board of Education* (1954); *Brown II* (1955); *Bakke v. UC Regents* (1977).

III. Civil Liberties: **Amendment I**

- A. Religion
  - 1. Establishment Clause: Positive and Negative Freedom (“to” and “from”)
- B. **Speech** (Expression), Assembly, and Press; limits and exceptions.
  - 1. "balancing doctrine"
  - 2. "clear and present danger"
  - 3. "fighting words doctrine"
  - 4. seditious speech (sedition)
  - 5. "commercial speech"
  - 6. libel and “slander
  - 7. obscenity and pornography (“but is it art”?)
  - 8. secrecy (national security)
  - 9. "prior restraint"

IV. 2<sup>nd</sup> AmendmentV. **Rights of the Accused**

- A. 4<sup>th</sup> Amendment: Warrant, probable cause, hot pursuit, permission.
  - 1. *Mapp v. Ohio* (exclusionary rule)\*
- B. 5<sup>th</sup> Amendment
  - Indictment by Grand Jury
  - Self incrimination
    - 1. *Miranda v. Arizona*\*
  - Double jeopardy
  - Due process of law
  - Just Compensation (eminent domain)
- C. 6<sup>th</sup> Amendment VI
  - Speedy and Public trial
  - Local trial (and change of venue)
  - Informed of nature/cause of accusation

Confront witnesses  
“compulsory process” (subpoena)  
Assistance of council  
1. *Gideon v. Wainwright*\*

D. 8<sup>th</sup> Amendment: “no cruel and unusual punishment”

E. Article I, Section 9

1. *habeas corpus* (“show me the body”)
2. no bill of attainder
3. no *ex post facto* law

## V. Privacy

A. (“Implied by” Amendments 1-2-3-4); **14<sup>th</sup> (due process clause: equal protection)** .

A. Sexual Behavior and Reproductive Rights

1. *Griswold v. Connecticut* (1965)
2. *Roe v. Wade* (1973)
3. *Lawrence v. Texas* (2006)
4. *Obergefell v. Hodges* (2015)