

LECTURE / DISCUSSION / DEBATE
CIVIL LIBERTIES AND CIVIL RIGHTS

Terms and concepts to know:

Treason / Bills of Attainder

Bill of Rights

1st Amendment liberties

“Clear and present danger” test

Prior restraint

The “fighting words” doctrine

Miranda rights and *Gideon*

5th / 6th Amendments

Brown v. the Board of Education

Ex Post Facto / Writ of Habeas Corpus

Due Process (14th Amendment)

The “Establishment” clause

“Absolute standard” v. “balancing” test

Brandenburg doctrine

4th Amendment

8th Amendment

Plessy v. Ferguson

Affirmative action and *Bakke*

Study and discussion questions:

1. Discuss some of the difficult and contentious issues surrounding the First Amendment. How do you feel about such things as freedom of speech, expression, religion, and the press? Are they all “absolute” freedoms? What sort of restrictions would you allow in each category?
2. Read and discuss David Cole’s thesis from *No Equal Justice*. Do you agree with his take on the OJ Simpson trial and verdict? And what about his notions of discrimination within the justice system? Are his reflections on the *Miranda* and *Gideon* cases valid? Why or why not?
3. Contending views on affirmative action reflect differing beliefs about the extent to which historical patterns of racism and discrimination have been overcome. To what extent is it legitimate to take past patterns of discrimination into account for such purposes as employment and college admissions?
4. What analogy does Sunstein make between the New Deal’s revolution in economic doctrine and the change he advocates in our interpretations of free expression and the 1st Amendment?
5. Sunstein claims that his proposals will further democracy. Critics might argue that he wants to limit liberty in a dangerous way. How would you assess these claims?
6. Relating to the Snyder article, identify the leading arguments against homosexual equality and gay marriage. What are Snyder’s arguments against each of these positions? Do you agree that these antigay perspectives serve to uphold rigid gender roles or “neo-patriarchy”?

Readings:

Heineman. *American Government*, chapter 14.

Grover/Peschek. *Voices of Dissent*, chapters 8.30, 8.32.

Video:

Selections from *The ACLU Files*.