

LECTURE / DISCUSSION / DEBATE  
CIVIL LIBERTIES AND CIVIL RIGHTS

**Terms and concepts to know:**

Treason / Bills of Attainder

Bill of Rights

1<sup>st</sup> Amendment liberties

“Clear and present danger” test

Prior restraint

The “fighting words” doctrine

Miranda rights and *Gideon*

5<sup>th</sup> / 6<sup>th</sup> Amendments

*Brown v. the Board of Education*

Ex Post Facto / Writ of Habeas Corpus

Due Process (14<sup>th</sup> Amendment)

The “Establishment” clause

“Absolute standard” v. “balancing” test

Brandenburg doctrine

4<sup>th</sup> Amendment

8<sup>th</sup> 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. 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?
3. 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 1<sup>st</sup> Amendment?
4. 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?
5. 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”?
6. The Marshall Project notes that “[t]he “superpredator” theory, besides being a racist trope, was not borne out in crime statistics.” If this is true, why do you believe it has persisted for as long as it has? Why in your opinion did both conservatives *and* liberals (like Joe Biden and Hillary Clinton) embrace the theory so completely? What has been the fallout from this theory taking hold in many American’s minds?

**Readings:**

Heineman. *American Government*, Chapter 14.

WEB – Readings from the “Civil Liberties and Civil Rights” links.

**Video:**

*Broken on All Sides: Race, Mass Incarceration & New Visions for Criminal Justice in the U.S.*