**Unit 4 Civil Rights, Civil Liberties, and the Judiciary**

1. **Civil Liberties: Legal Protections Embedded in the Constitution**
	1. **Civil Liberties**
		1. **Due Process**
2. **5th Amendment**
3. **4th & 6th Amendments**
	* 1. **Equal Protection**
4. **14th Amendment**

**3. Voting, Freedoms, Citizenship**

 **a.** **1/13/14/15/19/24/26th Amendments**

 **B. Civil Rights: Legal protections created by Congress**

 **1. Anti-Discrimination**

 **a. Civil Rights Act of 1964**

 **b. Americans with Disabilities Act**

 **2. Privacy**

 **a.** **FERPA (Federal Educational Rights and Privacy Act)**

 **b. HIPAA (Health Insurance Portability and Accountability Act)**

1. **Civil Rights + Liberties in Pre-World War II America**
	1. **Legal inconsistencies in court interpretation of “Equal Protection”**

**1. *Dredd Scott v. Sanford (1857)* and Taney’s dictum**

 **2. Precedent of *Plessy v. Ferguson* (1896) and Harlan’s Dissent**

 **B. No Enforcement of Court Decisions that Promoted Civil Rights**

 **1. Congress and State Legislatures Silent**

 **2. Southern Gov. Refuse to Enforce**

 **C. Impact of WWII**

 **1. Black Soldiers’ Experience in War**

 **2. Race Riots at Home**

 **3. Women’s Empowerment**

 **4. FDR’s Promises of a “Better Day” Post War**

**III. Post WW2 Action**

1. **NAACP “Test Cases” – Focus on Public Schools**
	* 1. **Thurgood Marshall**
		2. ***Sweatt v. Painter* (1950), 9-0**
		3. **Essential Court Case - *Brown v. Board of Education (1954)\*\*\*\*\* 9-0***
		4. ***Bolling v. Sharpe* (1954), 9-0**
		5. ***Brown II* (1955), 9-0**
			1. **Court Dictum**
			2. **“All Deliberate Speed”**
2. **SCOTUS Cases Bolster the Civil Rights Movement**
3. **Need to Know Document - *MLK – Letter from Birmingham Jail (1963)\*\*\*\****
	* 1. **Defends Non-Violent Protest against Unjust Laws**

 **D. MLK and Lyndon Johnson**

**1. Civil Rights Act of 1964**

**2. Voting Rights Act of 1965**

**3. Appointment of Sympathetic Justices**

**IV. Major Civil Rights Issues of the 20th Century**

**Mostly decided by the Warren Court (1953-1969) and Burger Court (1969-1986)**

**A. Due Process**

 **1. Mapp v. Ohio (1961), 6-3**

 **a. What counts as admissible evidence?**

 **b. Check/balance on police (executive)**

 **2. Gideon v. Wainwright (1963), 9-0\*\*\*\*\***

 **a. Applies right to counsel to state cases**

 **3. Miranda v. Arizona (1966), 5-4**

 **a. Is the government responsible for informing suspects of their rights?**

 **b. What happens if they fail to do so?**

 **\*Update in Vega v. Tekoh (2022)**

**B. Feminist Movement**

 **1. National Organization of Women**

 **2. Struggle for the Equal Rights Amendment**

 **3. Test Cases**

 **a. Reed v. Reed (1971), 9-0**

 **i. 14th Amendment applied to gender discrimination**

 **b. Craig v. Boren (1976), 7-2**

 **i. Creation of “Intermediate Scrutiny”**

 **4. Application to other Groups; Quasi-Suspect Classes**

 **5. Title IX Provisions**

**C. Public Education**

 **1. Swann v. Charlotte-Mecklenburg (1971), 9-0**

 **a. Does Brown prohibit segregation, or force integration?**

 **b. Ruling**

 **i. Courts given authority to create desegregation solutions**

 **ii. Office of Civil Rights (DoJ) given enforcement authority**

 **iii. TUSD Deseg Lawsuit 1974**

 **2. Tinker v. Des Moines (1969), 7-2 \*\*\*\*\***

 **a. Can schools regulate speech on campus?**

 **b. Ruling – only if disruptive; ”Symbolic Speech” protected**

 **3. Wisconsin v. Yoder (1972), 9-0 \*\*\*\*\***

 **a. Can States mandate education?**

 **b. Are religious exemptions to education viable?**

 **c. Ruling – 1A Free Exercise Clause**

 **4. Regents of Uni. Of Cali. v. Bakke (1978), 8-1**

 **a. Swann decision made racial quotas in school admissions legal**

 **b. UC Regents alleged “reverse racism”**

 **c. Ruling**

 **i. Racial quotas cannot be sole or main factor**

 **ii. Other metrics must be used!**

**D. Privacy, Abortion, and Sexual Orientation**

 **1. The Case for a Constitutional Right to Privacy**

 **a. First Amendment – Protects Privacy of Beliefs**

 **b. Third Amendment – Protects Privacy of Property**

 **c. Fourth Amendment – Protects Privacy from Searches and Seizures**

 **i. How far does this extend? Private property? Bodily autonomy?**

 **d. Fifth Amendment – “Life, liberty, or property” and due process (federal level)**

 **e. Ninth Amendment – Anything not explicitly written, is allowed**

 **f. Fourteenth Amendment – “Life, liberty, or property” and due process (state level)**

 **2. Griswold v. Connecticut (1965), 7-2**

 **a. Privacy elevated to a Fundamental Right**

 **b. The “Penumbras” of the Constitution**

 **c. Justice Black’s Dissent**

 **3. Essential Court Case - *Roe v. Wade (1973), 7-2 \*\*\*\*\****

 **a. Majority Dictum**

 **i. Trimester Tests**

 **\*T1 – Strict Scrutiny**

 **\*T2 – Intermediate**

 **\*T3 – Rational Basis**

 **b. Dissent
 c. Reaffirmed (with edits) in Planned Parenthood v. Casey (1992)**

**4. Dobbs v. Jackson Women’s Health (2022), 6-3**

 **a. Overturns Roe and Casey**

 **b. Alito’s Majority Opinion vs. Thomas’s Concurrence**

**5. Obergefell v. Hodges (2015), 5-4**

 **a. Do bans on same-sex marriage violate privacy?**

 **b. Ruling**

 **i. Majority – Violates14A Equal Protection and Due Process**

 **ii. Dissents – 10A States Rights**

**E. Separation of Church and State**

 **1. Establishment Clause applied to States by Everson v. Board of Ed. (1947)**

 **a. Can State dollars go to religious schools?**

 **2. Lemon v. Kurtzman (1971), 8-1**

 **a. ”Lemon Test”**

 **i. Purpose of state involvement must be clearly secular**

 **ii. Government must neither advance nor hinder religion**

 **iii. Government must avoid “excessive entanglement” with religion**

 **3. Essential Court Case - *Engel v. Vitale (1972), 6-1\*\*\*\*\****

 **a. Can public schools conduct prayer?**

 **i. Does it matter if non-denominational?**

 **ii. Does it matter who leads the prayer?**

 **b. Ruling – 1A Establishment Clause**

**F. Regulation of Free Speech**

 **1. Radical Speech**

 **a. State Interest – Prevent citizens from inciting violence, panic, treason**

 **b. Citizen Interest – Ability to freely voice opinions and criticisms**

 **c. Essential Court Case - *Schenck v. United States (1919), 9-0 \*\*\*\*\****

 **i. “Clear and Present Danger” Test**

 **ii. Ex: Shouting “Fire” in a crowded theater**

 **d. New York Times v. United States (1971), 6-3 \*\*\*\*\***

 **2. Defamatory Speech**

 **a. Libel vs Slander**

 **b. Essential Court Case - *New York Times v. Sullivan (1964), 9-0***

 **i. Difference of private citizen vs. public figure**

 **ii. Knowledge, intent, and impact of publication**

 **3. Obscene Speech**

 **a. What counts as “illegally inappropriate”?**

 **b. Miller v. California (1973), 5-4**

 **i. The Miller Test**

 **\*Material violates community standards of decency**

 **\*Material depicts or describes offensive conduct or functions**

 **\*Material lacks literary, artistic, political, or scientific value**

 **c. “I can’t define it, but I know it when I see it”**

 **d. Regulation of online content via “community standards”**

**4. Offensive Speech**

 **a. Provokes violent response from audience**

 **b. Chaplinsky v. New Hampshire (1942), 9-0; “Fighting Words Doctrine”**

**5. Time, Place, and Manner Restrictions on Speech**

**a. Ward v. Rock Against Racism (1989), 6-3**

 **i. Time, Place, and Manner of speech can be regulated if the law:**

 **\*Is content-neutral**

 **\*Is narrowly tailored to state interest**

 **\*Allows for alternate channels/methods**

**b. Time Restrictions**

 **i. Park Hours, Noise Ordinances, Youth Curfews**

 **c. Place Restrictions**

 **i. Public Property Subject to Rules of Use**

 **ii. Sidewalks vs Streets; Parks vs. City Buildings**

**d. Manner Restrictions**

 **i. How do you present your speech?**

 **ii. Texas v. Johnson (1989), 5-4**

**6. Speech in Public Schools**

 **a. Held to a lower standard of Constitutional protection**

 **i. Avoid disruption of learning environment**

 **ii. Protect young students from obscenity and indecency**

 **iii. Minors = not full citizens**

 **b. Schools and surrounding areas affected**

**-Morse v. Frederick (2007), 5-4**