**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**