

CHAPTER SUMMARY * * * * * **CHAPTER 13** * * *

Constitutional Freedoms

★ CONSTITUTIONAL RIGHTS *****

The Constitution guarantees human rights, or fundamental freedoms, but ultimately it is the responsibility of United States citizens to ensure the strength and endurance of these rights. If citizens do not meet their responsibilities, the guarantees become meaningless, and society suffers.

The Bill of Rights, composed of the first 10 amendments, prohibits the abuse of power by the national government. The Fourteenth Amendment, ratified in 1868, prohibits the states from:

- making or enforcing laws that “abridge the privileges and immunities of citizens . . .”
- depriving “any person of life, liberty, or property without due process of law . . .”

Through a process called incorporation, the Supreme Court has ruled that the Fourteenth Amendment applies the guarantees in the Bill of Rights to state and local governments. In effect, this means that through the process of nationalization, individuals who believe a state or local government has denied them basic rights can sue in federal courts.

★ FREEDOM OF RELIGION *****

The establishment clause of the First Amendment states that “Congress shall make no law respecting an establishment of religion.” The free exercise clause prohibits the government from unduly interfering with religious practices. The interpretation of these clauses has led to controversial Supreme Court rulings, many of them related to education. With respect to the establishment clause, the Court has:

- developed a three-part test to decide if states can give aid to parochial schools, schools operated by a church or religious group. To be constitutional, the aid must: (1) have a clear . . . nonreligious purpose; (2) neither advance nor inhibit religion; and (3) avoid “excessive government entanglement with religion”;
- found that public schools may grant students release time to attend religious instruction carried on in private facilities but not in public facilities;

- banned various forms of religious observance in public schools when they are officially sponsored. However, it has found that student-initiated and led religious clubs may use school facilities. The Equal Access Act ensured that such clubs should be just as eligible to use school facilities as other student organizations. It has also ruled that the constitutional ban on school prayer does not apply to government meetings.

The Supreme Court has interpreted the free exercise clause to mean that freedom of religion does not protect all behavior, particularly when religious practices conflict with criminal laws. In one notable instance the Court reversed itself. A 1940 decision found that students could be required to salute the flag, even if it violated their religious beliefs. In 1943 the Court ruled that such laws were an unconstitutional interference with the free exercise of religion.

★ FREEDOM OF SPEECH *****

The Supreme Court has identified two categories of speech that are protected by the First Amendment:

- | | |
|---|---|
| <ul style="list-style-type: none"> • Pure speech Verbal expression of thoughts and opinions before an audience that has chosen to listen. | <ul style="list-style-type: none"> • Symbolic speech Sometimes called expressive conduct, symbolic speech uses actions and symbols to express opinions. |
|---|---|

(continued)

Chapter 13 Summarycontinued

FREEDOM OF SPEECH *(continued)*

Expressive conduct that endangers public safety, trespasses, or unnecessarily blocks traffic is not protected. In addition, the Court has ruled that government can regulate or forbid expressive conduct in unusual, narrowly defined circumstances.

The Court also has developed three doctrines that it applies when deciding whether speech has gone beyond the limits of First Amendment guarantees:

- **Clear and present danger** Speech that clearly presents an immediate danger is not protected.
- **Bad tendency doctrine** Speech that has a tendency to lead to illegal action is not protected.
- **Preferred position doctrine** Any law that limits First Amendment freedoms should be presumed unconstitutional unless the government can show that it is absolutely necessary.

Furthermore the Court has ruled that the First Amendment does not protect the following categories of speech:

- **Seditious speech** Speech intended to advocate immediate, concrete acts of violence against the government is not protected.
- **Defamatory speech** False speech that damages a person's character or reputation is not protected.
- **Fighting words** Words so insulting that they provoke an immediate violent reaction from the listener are not protected.

The Court also has upheld the right of school officials to regulate lewd or indecent speech at school events as well as student speech in school-sponsored activities.

★ FREEDOM OF THE PRESS

On freedom of the press issues, the Supreme Court has ruled that:

- government may exercise prior restraint, censorship of information before it is published, only if it can show that publication would endanger the national security;
- pretrial and courtroom publicity can interfere with the right to a fair trial. It has permitted judges to bar the press from hearings if warranted. The Court also allows measures such as moving the location of a trial and sequestering the jury, or holding it in custody, until the trial ends;

- reporters cannot refuse to testify or surrender evidence. However, thirty states have passed shield laws designed to give reporters some means of protection against being forced to disclose "confidential information or sources";
- government can require radio and television stations to observe certain standards and can punish stations that broadcast obscene language;
- motion pictures and the Internet are protected by free-press guarantees.

★ FREEDOM OF ASSEMBLY

The Constitution defines freedom of assembly as "the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Court has interpreted this right in the following ways:

- In the interest of public order and safety, government can require demonstrators to obtain advance permission.
- Authorities may halt a demonstration to preserve order. However, they may not arrest peaceful demonstrators if the audience is the cause of the disorder.

- Protesters cannot enter facilities such as prisons without permission or hold demonstrations intended to disrupt educational instruction.
- Protesters cannot convert private property (such as malls) to their own use.
- Government may ban or limit picketing by labor unions under certain circumstances.
- The state can restrict "freedom of association"—the right to join an organization—but only if it can show that the group is making actual preparations for the use of force against the government.

CHAPTER SUMMARY * * * * *

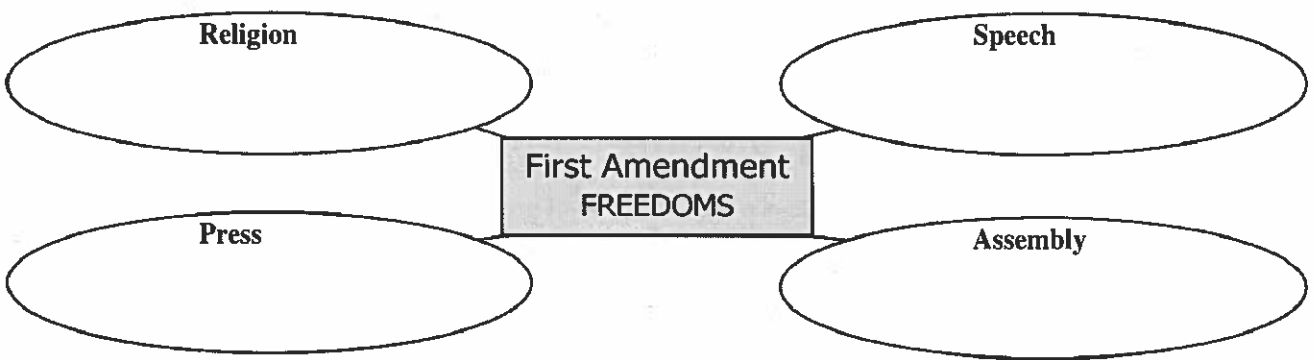
CHAPTER
13

Constitutional Freedoms

★ **DIRECTIONS** In the space provided, write the word or phrase that best completes each of the following sentences.

1. The Constitution guarantees _____, or fundamental freedoms.
2. The Fourteenth Amendment applies the guarantees in the Bill of Rights to _____ and _____ governments.
3. The _____ clause of the First Amendment prohibits the government from unduly interfering with religious practices.
4. Symbolic speech is the use of _____ and symbols to express opinions.
5. _____ speech is intended to advocate immediate, concrete acts of violence against the government.
6. The term _____ refers to censorship of information before it is published.
7. _____ orders are court orders barring pretrial publication of certain types of information.
8. Government can punish television and radio stations that broadcast _____ language.
9. In the interest of public order and safety, government can require demonstrators to obtain _____.

Organizing Information Examine the following diagram and consider the list of phrases describing concepts and issues that are related to First Amendment freedoms. Write each item under the appropriate heading on the map.



- | | | |
|--|---|---|
| <ul style="list-style-type: none"> • shield laws • the establishment clause • union picketing | <ul style="list-style-type: none"> • clear and present danger • the bad tendency doctrine • pretrial publicity | <ul style="list-style-type: none"> • freedom of association • school prayer |
|--|---|---|

Critical Thinking Answer the following question on a separate sheet of paper.

10. What three questions would the Supreme Court consider when deciding if a state can pay for a science textbook to be used in a parochial school?

CHAPTER SUMMARY * * * * * **CHAPTER 14** * * *

Citizenship and Equal Justice

★ A NATION OF IMMIGRANTS *****

An alien is a person who lives in a country where he or she is not a citizen. The fundamental rights guaranteed in the Constitution apply to aliens. United States law recognizes five categories of aliens:

Category	Definition
Resident Aliens	have established permanent residence in the United States
Nonresident Aliens	expect to stay in the United States for a short, specified period of time
Enemy Aliens	are citizens of a nation with which the United States is at war
Refugees	are people fleeing to escape persecution
Illegal Aliens	have entered the United States without a legal permit

The immigration policy of the United States has changed over the years:

- The **Chinese Exclusion Act of 1882** restricted the admission of Chinese laborers. Other restrictions were added over the next 30 years, but the number of immigrants soared.
- The **Johnson Act of 1924** limited the number of immigrants who could enter the country each year and instituted a system that favored northern and western Europeans.
- The **Immigration Reform Act of 1965** substituted quotas based on national origin for those based on hemisphere.
- The **Immigration Reform and Control Act of 1986** provided a way for illegal immigrants to obtain legal status and imposed penalties on employers who hire illegal immigrants.
- The **Immigration Act of 1990** made country quota more equitable and favored highly educated immigrants.
- The **Illegal Immigration Reform and Immigrant Responsibility Act of 1996** law expanded the U.S. Border Patrol and strengthened penalties for false papers..

★ THE BASIS OF CITIZENSHIP *****

Citizens have responsibilities that include obeying the laws, staying informed, voting, respecting the rights and properties of others, and tolerating differences.

The Fourteenth Amendment to the Constitution grants American citizenship to “all persons born or naturalized in the United States.” Naturalization is the legal process by which a person is granted the rights and privileges of a citizen. All immigrants who wish to become American citizens must go through the naturalization process. Applicants for citizenship must meet five requirements. Applicants must:

- have entered the United States legally

- be of good moral character
- declare their support of the principles of the United States government
- prove they can read, write, and speak English
- show some basic knowledge of American history and government.

There are three ways to lose U.S. citizenship. Expatriation means giving up one’s citizenship by leaving the country to live elsewhere. Individuals convicted of certain federal crimes that involve extreme disloyalty may lose their citizenship. An individual who commits fraud or deception during the naturalization process loses citizenship through denaturalization.

(continued)

Chapter 14 Summarycontinued

★ EQUAL PROTECTION OF THE LAW

The democratic ideal of equality means that all people have equal rights under the law. The Supreme Court has developed guidelines for determining when a state law violates the principle of equal protection:

- The rational basis test means that the state must show that a classification is “reasonably related” to an acceptable goal of government.
- A classification made on the basis of race or national origin is suspect and subject to strict judicial scrutiny. To justify it, the state must show that there is a “compelling public interest” to justify using this type of classification.
- State laws may not use classifications that violate fundamental rights guaranteed by the Constitution, such as the right to vote and the right to travel freely between states.

Discrimination exists when people are treated unfairly solely because of a classification that has no reasonable justification. It would be unreasonable to discriminate against all redheads, for example, in hiring for a corporate sales job. In court cases alleging discrimination, plaintiffs must show that there was an intent to discriminate (not merely that a law had an unequal impact on different groups). Prime examples of law intended to discriminate are the so-called Jim Crow laws that came into effect after the Civil War. They were intended to establish segregated facilities and institutions in many Southern states. In *Plessy v. Ferguson* (1896), the Supreme Court decided that such segregation was defensible, so long as the facilities were equal in quality. This “separate but equal doctrine” was overturned in the historic 1954 decision *Brown v. Board of Education*, where the Court concluded that separate facilities were inherently unequal. This case marked the beginning of the modern civil rights movement, which culminated in significant civil rights legislation in the 1960s.

★ CHALLENGES FOR CIVIL LIBERTIES

Changing ideas, social conditions, and technology have created new civil liberties issues:

- Affirmative action refers to government policies that directly or indirectly give preference to minorities and women in order to make up for past discrimination. Supporters argue that affirmative action is needed to “make the playing field level.” Opponents say that it is reverse discrimination. The Supreme Court has upheld some affirmative action plans while striking down others.
- In gender discrimination cases the Supreme Court has set a reasonableness standard for laws.

Classifications “must rest on some ground of difference” that serves “important governmental objectives.”

- The Freedom of Information Act requires federal agencies to provide citizens with access to government records on request, except for reasons of national security and confidentiality.
- War and other national emergencies create tension between the need to maintain individual rights and the need to protect the nation’s security. For example, the USA Patriot Act strengthened the national government but may pose a threat to civil liberties.

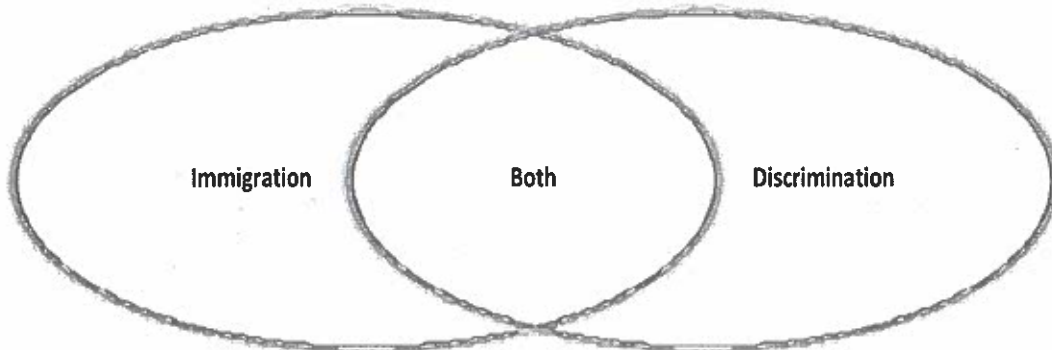
CHAPTER SUMMARY * * * * * **CHAPTER 14** * * *

Citizenship and Equal Justice

★ **DIRECTIONS** In the space provided, write the word or phrase that best completes each of the following sentences.

1. _____ aliens expect to stay in the United States for a short, specified period of time.
2. _____ is the legal process by which a person is granted the rights and privileges of citizenship.
3. _____ means giving up citizenship to live in another country.
4. The _____ were early targets of immigration restriction on the West Coast.
5. Under some immigration reform proposals, undocumented aliens in the country for a long time would be granted _____.
6. After the Civil War, the Dred Scott decision of 1857 was overruled by the _____ Amendment.
7. Equal protection under the law means that states cannot use _____ distinctions to classify people.
8. In order to establish surveillance of an individual's use of the Internet, the government must usually obtain a warrant from special _____ court.
9. _____ refers to government policies that give preference to minorities and women to make up for past discrimination.
10. The _____ of _____ Act grants citizens access to government records upon request.

Organizing Information Examine the following diagram and study the list of concepts associated with immigration and/or discrimination. Write each item in the appropriate space in the diagram.



- residence requirements
- rational basis test
- suspect classification
- naturalization
- right to privacy
- affirmative action
- refugee status
- fundamental rights

Critical Thinking Answer the following question on a separate sheet of paper.

11. Why do you think the principle of double jeopardy does not apply if a trial jury cannot reach a verdict in a case?

CHAPTER SUMMARY * * * * *

Law in America

★ SOURCES OF AMERICAN LAW

The set rules and standards by which a society governs itself is known as law.

- **Common law** refers to decisions based on custom and precedent—earlier legal rulings.
- **Constitutional law**, the interpretation of the federal and state constitutions, is the most fundamental source of law in the United States.
- **Statutory law** refers to statutes, or the laws written by legislatures. Most state courts, cases deal with statutory law violations.
- **Administrative law** refers to government agency rules and regulations that carry out statutory laws.

Four basic principles guide the American legal system:

- Equal justice means that every individual is entitled to the full protection of law.
- Due process of law is the legal principle that a law must be applied in a fair manner. Substantive due process addresses fundamental rights. Procedural due process prohibits arbitrary enforcement of the law.
- In the adversarial system, lawyers for opposing sides should do all that is legal to win their case.
- Presumption of innocence means that a person accused of a crime is presumed innocent until proven guilty. Unless the prosecution proves its case, the court must declare the defendant not guilty.

★ CIVIL LAW

Civil law, which concerns disputes between two or more individuals or between individuals and the government, has four major branches:

- **Contracts** A contract is a set of voluntary promises, enforceable by law, between parties who agree to do or not to do something. Parties specify their terms in an expressed contract, usually in writing. In an implied contract, the terms can be inferred.
- **Property Law** Law that deals with the use and ownership of property. Real property includes land and whatever is attached to or growing on it. Personal property includes moveable things such as clothes and intangible items like stocks.
- **Family Law** Law that covers relationships among family members including marriage, divorce, and parent-child relationships.
- **Torts** Any wrongful acts, other than breach of contract, for which the injured party has the right to sue in a civil court. Intentional torts involve a deliberate act that results in harm. Negligence refers to careless or reckless behavior that results in unintended harm.

Civil cases are called lawsuits initiated when a plaintiff files a complaint against the defendant. Civil cases are decided by common law, statutory law, and equity law, principles which supplement the other two kinds of law. A court decision based in equity often involves an injunction, or court order to a defendant to stop doing something.

In other cases the adversary system applies, and certain steps must be followed:

- The defendant must respond to charges unless the court decides to dismiss the case.
- Each side checks facts and gathers evidence during the pretrial discovery stage.
- About 90 percent of civil cases are settled without trial, that is, through mediation, or arbitration.
- If there is a trial, the judge or jury renders a verdict. The court may award damages and/or relief through injunction; the loser can appeal.

Copyright © by The McGraw-Hill Companies, Inc.

(continued)

Chapter 15 Summarycontinued

★ CRIMINAL LAW

State governments have jurisdiction over most crimes and have developed their own penal codes—written laws that define crimes and spell out punishments:

- **Petty offenses** are minor crimes usually punishable by a fine.
- **Misdemeanors** are more serious crimes that may be punishable by a fine or imprisonment, usually for up to one year.
- **Felonies** are the most serious crimes, punishable by lengthy prison sentences and possibly death. Convicted felons also may lose certain rights, such as voting.

Although procedures may vary from state to state, nearly every felony case follows the same steps:

- | | |
|---|---|
| <ul style="list-style-type: none"> • Investigation and Arrest During an investigation the police gather evidence for an arrest. • Initial Appearance Following arrest the individual must be brought before a judge within 24 hours. The judge explains the charges, reads the defendant's rights, and sets a date for the next step. The judge may set bail, money deposited with the court as a guarantee of return before releasing the defendant. • Preliminary Hearing or Grand Jury Appearance A grand jury or a judge at a preliminary hearing decides whether there is enough evidence to issue an indictment—a formal criminal charge. Ninety percent of indictments end through plea bargaining: The defendant pleads to lesser charges and receives a lighter penalty. | <ul style="list-style-type: none"> • Arraignment and Pleas The judge reads the formal charges against the defendant who is arraigned in open court. If the defendant pleads not guilty, the judge schedules a trial. • The Trial Defendants can choose between a bench trial heard only by a judge or trial by jury. The prosecution and the defense present their cases and a decision is rendered. If the trial results in a hung jury, one that cannot reach a verdict, the judge declares a mistrial and a new trial may be scheduled. • Sentencing or Release Defendants found not guilty are released immediately. The judge determines the sentence, or penalty, to be imposed if the verdict is guilty. |
|---|---|

★ THE RIGHTS OF THE ACCUSED

The Bill of Rights protects the rights of individuals accused of a crime. The Fourteenth Amendment incorporates those rights and applies them to state and local government:

- **The Fourth Amendment** prohibits “unreasonable searches and seizures.” The exclusionary rule holds that evidence obtained during an illegal search cannot be used in a criminal trial. In recent years the Supreme Court has allowed exceptions to this principle if its application would defeat the purpose of justice.
- **The Fifth Amendment** protects individuals from self-incrimination, or giving evidence against themselves. In 1965 the Supreme Court established

the *Miranda* rule which holds that suspects must be clearly informed of their Fifth Amendment rights before police question them.

- **The Fifth Amendment** also prohibits double jeopardy, which means that a person cannot be tried twice for the same crime.
- **The Sixth Amendment** guarantees a defendant the right to counsel—an attorney.
- **The Eighth Amendment** prohibits “cruel or unusual punishment.” The Court has found that this prohibition applies to capital punishment when it is imposed in apparently arbitrary ways.

CHAPTER SUMMARY * * * * * **CHAPTER 16** * * *

Political Parties

★ DEVELOPMENT OF PARTIES *****

A political party is a group of people with broad common interests who organize to nominate candidates and win elections, control government, and thereby influence public policy.

- In a **one-party system**, the party is the government. One-party systems are usually found in nations with authoritarian governments. A one-party government dominated by religious leaders is called a theocracy.
- In a **multiparty system**, many parties represent widely differing ideologies, or basic beliefs about government. In this system, one party rarely receives a majority of the vote. Therefore several parties must work together to form a coalition government. When coalitions break down, the government must call for new elections.
- The United States has a **two-party system** in which Democrats and Republicans are the two major political organizations. Today U.S. voters are divided about equally among Democrats, Republicans, and independent voters.

A third party, sometimes called a minor party, is any party other than one of the two major parties.

On three occasions, a third-party candidate has taken enough votes from one major party candidate to insure the victory of the other. Third parties also have been the first to champion issues such as minimum wage and health insurance.

- A single-issue party focuses exclusively on one major issue. It usually collapses when the importance of the issue fades or when one of the major parties adopts the cause.
- An ideological party, such as the Communist Party, advocates major changes in the system.
- A splinter party forms when a group splits off from a major party to support an alternate candidate for president. Splinter parties typically disappear with the defeat of that candidate.

★ PARTY ORGANIZATION *****

To be successful a political party needs strong leadership and good organization at the local, state, and national levels. The basic local unit of a party is the precinct. A precinct is a district that ranges from a few to more than 1,000 voters, all of whom cast their ballots at the same polling place. A precinct captain supervises the efforts of party workers. Several adjoining precincts make up a ward. Each ward sends a representative to the party's county committee. The county committee elects a chairperson who usually is the most powerful person in the local party.

Every county organization has a representative on the state central committee. That committee's principal function is to help elect candidates to state office. It also assists local party candidates, coordinates the activities of the local organizations, and raises funds.

The national party organization has two main components: the national convention and the

national committee. The national convention meets once every four years to nominate candidates for president and vice president. Between conventions, the national committee, composed mainly of representatives from the state organizations, runs the party. The national chairperson oversees fund raising and promotes cooperation among the national, state, and local organizations.

Political parties perform several important functions.

- They seek out candidates who have a good chance of being elected. Parties are often election-oriented rather than issue-oriented.
- Political parties bring important issues to the public's attention. They want to give informed citizens a choice between alternate approaches to a problem. Party affiliations can help voters understand generally where a candidate stands on key issues.

Copyright © by The McGraw-Hill Companies, Inc.

(continued)