Chapter 1 : Amendment I - The United States Constitution

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people. Tenth Amendment The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Hamilton The Establishment Clause: Hamilton An accurate recounting of history is necessary to appreciate the need for disestablishment and a separation between church and state. The religiosity of the generation that framed the Constitution and the Bill of Rights of which the First Amendment is the first as a result of historical accident, not the preference for religious liberty over any other right has been overstated. In reality, many of the Framers and the most influential men of that generation rarely attended church, were often Deist rather than Christian, and had a healthy understanding of the potential for religious tyranny. This latter concern is to be expected as European history was awash with executions of religious heretics: Protestant, Catholic, Jewish, and Muslim. Three of the most influential men in the Framing era provide valuable insights into the mindset at the time: Franklin saw a pattern: If we look back into history for the character of the present sects in Christianity, we shall find few that have not in their turns been persecutors, and complainers of persecution. The primitive Christians thought persecution extremely wrong in the Pagans, but practiced it on one another. The first Protestants of the Church of England blamed persecution in the Romish Church, but practiced it upon the Puritans. These found it wrong in the Bishops, but fell into the same practice themselves both here [England] and in New England. The father of the Constitution and primary drafter of the First Amendment, James Madison, in his most important document on the topic, Memorial and Remonstrance against Religious Assessments , stated: During almost fifteen centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy, ignorance and servility in the laity, in both, superstition, bigotry and persecution. What influence, in fact, have ecclesiastical establishments had on society? In some instances they have been seen to erect a spiritual tyranny on the ruins of the Civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been the guardians of the liberties of the people. Two years later, John Adams described the states as having been derived from reason, not religious belief: It will never be pretended that any persons employed in that service had any interviews with the gods, or were in any degree under the influence of Heaven, any more than those at work upon ships or houses, or laboring in merchandise or agriculture; it will forever be acknowledged that these governments were contrived merely by the use of reason and the senses. Thirteen governments [of the original states] thus founded on the natural authority of the people alone, without a pretence of miracle or mystery, which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favor of the rights of mankind. Massachusetts and Pennsylvania are examples of early discord. In Massachusetts, the Congregationalist establishment enforced taxation on all believers and expelled or even put to death dissenters. Baptist clergy became the first in the United States to advocate for a separation of church and state and an absolute right to believe what one chooses. Baptist pastor John Leland was an eloquent and forceful proponent of the freedom of conscience and the separation of church and state. Even so, the Quakers set in motion a principle that became a mainstay in religious liberty jurisprudence: Read the full discussion here. The reason for this proliferation of distinct doctrines is that the Establishment Clause is rooted in a concept of separating the power of church and state. These are the two most authoritative forces of human existence, and drawing a boundary line between them is not easy. The further complication is that the exercise of power is fluid, which leads both state and church to alter their positions to gain power either one over the other or as a union in opposition to the general public or particular minorities. The following are some of the most important principles. A Massachusetts law delegated authority to churches and schools to determine who could receive a liquor license within feet of their buildings. The Supreme Court struck down the law, because it delegated to churches zoning power, which belongs to state and local government, not private entities. According to the Court: The challenged statute thus enmeshes churches in the processes of government and creates the danger

of [p]olitical fragmentation and divisiveness along religious lines. Grumet , the state of New York designated the neighborhood boundaries of Satmar Hasidim Orthodox Jews in Kiryas Joel Village as a public school district to itself. Thus, the boundary was determined solely by religious identity, in part because the community did not want their children to be exposed to children outside the faith. The Court invalidated the school district because political boundaries identified solely by reference to religion violate the Establishment Clause. The phrase, however, is misleading. The Supreme Court has never interpreted the First Amendment to confer on religious organizations a right to autonomy from the law. In fact, in the case in which they have most recently demanded such a right, arguing religious ministers should be exempt from laws prohibiting employment discrimination, the Court majority did not embrace the theory, not even using the term once. Therefore, if the dispute brought to a court can only be resolved by a judge or jury settling an intra-church, ecclesiastical dispute, the dispute is beyond judicial consideration. This is a corollary to the absolute right to believe what one chooses; it is not a right to be above the laws that apply to everyone else. For the Court and basic common sense, these are arguments for placing religion above the law, and in violation of the Establishment Clause. They are also fundamentally at odds with the common sense of the Framing generation that understood so well the evils of religious tyranny. Hamilton Senior Fellow, Robert A. Cardozo School of Law.

Chapter 2 : The Right of the People to Keep and Bear Arms: The Common Law Tradition

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For educational use only. The printed edition remains canonical. However, when the history of a major political tradition, along with the assumptions and passions that forged it, are forgotten, it becomes extraordinarily difficult to understand or evaluate its legacy. This is particularly unfortunate when that legacy has been written into the enduring fabric of government. The Second Amendment to the United States Constitution is such a relic, a fossil of a lost tradition. Even a century ago its purpose would have been clearly appreciated. To nineteenth century exponents of limited government, the checks and balances that preserved individual liberty were ultimately guaranteed by the right of the people to be armed. The preeminent Whig historian, Thomas Macaulay, labelled this "the security without which every other is insufficient," [1] and a century earlier the great jurist, William Blackstone, regarded private arms as the means by which a people might vindicate their other rights if these were suppressed. De Lolme, an eighteenth century author much read at the time of the American Revolution [3] pointed out: But all those privileges of the People, considered in themselves, are but feeble defences against the real strength of those who govern. All those provisions, all those reciprocal Rights, necessarily suppose that things remain in their legal and settled course: British historians, no longer interested in the issue, have tended to ignore it, while American legal and constitutional scholars, ill-equipped to investigate the English origins of this troublesome liberty, have made a few cursory and imperfect attempts to research the subject. In a report on the legal basis for firearms controls, a committee of the American Bar Association observed: There is probably less agreement, more misinformation, and less understanding of the right of citizens to keep and bear arms than on any other current controversial constitutional issue. The crux of the controversy is the construction of the Second Amendment to the Constitution , which reads: Was it a qualifying or an amplifying clause? That is, was the right to arms guaranteed only to members of "a well-regulated militia" or was the militia merely the most pressing reason for maintenance of an armed community? The meaning of "militia" itself is by no means clear. It has been argued that only a small, highly trained citizen army was intended, [8] and, alternatively, that all able-bodied men constituted the militia. The fault lies not with the legal, but with the scholarly, community. For if the crux of the controversy is the construction of the Second Amendment, the key to that construction is the English tradition the colonists inherited, and the English Bill of Rights from which much of the American Bill of Rights was drawn. Experts in English constitutional and legal history have neglected this subject, however, with the result that no full-scale study of the evolution of the right to keep and bear arms has yet been published. Consequently, there is doubt about such elementary facts as the legality and availability of arms in seventeenth and eighteenth century England, and uncertainty about whether the English right to have arms extended to the entire Protestant population or only to the aristocracy. Experts in American constitutional theory have nevertheless endeavored to define the common law tradition behind the Second Amendment without the benefit of research into these basic questions. For example, in their report to the National Commission on the Causes and Prevention of Violence, George Newton and Franklin Zimring insist that any traditional right of Englishmen to own weapons was "more nominal than real," [11] while the authors of The Gun in America conclude that few Englishmen ever owned firearms because prior to the adoption of the English Bill of Rights in , firearms were expensive and inefficient, and thereafter guns were not considered "suitable to the condition" of the average citizen. Roy Weatherup, for example, interprets the clear English guarantee that "Protestant subjects may have arms for their defence" to mean "Protestant members of the militia might keep and bear arms in accordance with their militia duties for the defense of the realm. Nearly all writers agree, however, that an accurate reading of the Second Amendment is indispensable to resolving current debates over gun ownership, and that a clarification of the common law tradition is necessary to that reading. To begin with, the royal charters that created the new colonies assured potential emigrants that they and their children would "have and enjoye all Liberties and Immunities of free and naturall Subjects. Not only did colonists arrive in the new land equipped with an elaborate legal framework, they were for the most part

imbued with that attitude of antiauthoritarianism that had fueled the traumatic upheavals of the seventeenth century: This general distrust of central power resulted in the English Bill of Rights in and was to produce the American Bill of Rights a century later. Bernard Bailyn, in The Ideological Origins of the American Revolution, is emphatic about there being a connection between English opposition philosophy and American political thought: To say simply that this tradition of opposition thought was quickly transmitted to America and widely appreciated there is to understate the fact. Opposition thought, in the form it acquired at the turn of the seventeenth century and in the early eighteenth century, was devoured by the colonists. There seems never to have been a time after the Hanoverian succession when these writings were not central to American political expression or absent from polemical politics. Until late in the seventeenth century England had no standing army, and until the nineteenth century no regular police force. The old common law custom persisted that when a crime occurred citizens were to raise a "hue and cry" to alert their neighbors, and were expected to pursue the criminals "from town to town, and from county to county. Town gates were closed from sundown until sunrise and all householders, "sufficiently weaponed" according to the requirement, took turns standing watch at night or ward during that day. A series of later statutes spelled out in detail the arms each household was required to own and the frequency of practice sessions.

Chapter 3 : Constitutional Rights, Powers and Duties

Rights are legal, social, or ethical principles of freedom or entitlement; that is, rights are the fundamental normative rules about what is allowed of people or owed to people, according to some legal system, social convention, or ethical theory.

Full Document THE great fundamental issue now before the Republican party and before our people can be stated briefly. Are the American people fit to govern themselves, to rule themselves, to control themselves? I believe they are. My opponents do not. I believe in the right of the people to rule. I believe the majority of the plain people of the United States will, day in and day out, make fewer mistakes in governing themselves than any smaller class or body of men, no matter what their training, will make in trying to govern them. I believe, again, that the American people are, as a whole, capable of self-control and of learning by their mistakes. Our opponents pay lip-loyalty to this doctrine; but they show their real beliefs by the way in which they champion every device to make the nominal rule of the people a sham. I have scant patience with this talk of the tyranny of the majority. Wherever there is tyranny of the majority, I shall protest against it with all my heart and soul. But we are today suffering from the tyranny of minorities. It is a small minority that is grabbing our coal-deposits, our water-powers, and our harbor fronts. A small minority is battening on the sale of adulterated foods and drugs. It is a small minority that lies behind monopolies and trusts. It is a small minority that stands behind the present law of master and servant, the sweat-shops, and the whole calendar of social and industrial injustice. It is a small minority that is today using our convention system to defeat the will of a majority of the people in the choice of delegates to the Chicago Convention. The only tyrannies from which men, women, and children are suffering in real life are the tyrannies of minorities. If the majority of the American people were in fact tyrannous over the minority, if democracy had no greater self-control than empire, then indeed no written words which our forefathers put into the Constitution could stay that tyranny. No sane man who has been familiar with the government of this country for the last twenty years will complain that we have had too much of the rule of the majority. The trouble has been a far different one that, at many times and in many localities, there have held public office in the States and in the nation men who have, in fact, served not the whole people, but some special class or special interest. I am not thinking only of those special interests which by grosser methods, by bribery and crime, have stolen from the people. I am thinking as much of their respectable allies and figureheads, who have ruled and legislated and decided as if in some way the vested rights of privilege had a first mortgage on the whole United States, while the rights of all the people were merely an unsecured debt. Am I overstating the case? Have our political leaders always, or generally, recognized their duty to the people as anything more than a duty to disperse the mob, see that the ashes are taken away, and distribute patronage? Have our leaders always, or generally, worked for the benefit of human beings, to increase the prosperity of all the people, to give each some opportunity of living decently and bringing up his children well? The questions need no answer. Now there has sprung up a feeling deep in the hearts of the people not of the bosses and professional politicians, not of the beneficiaries of special privilege-a pervading belief of thinking men that when the majority of the people do in fact, as well as theory, rule, then the servants of the people will come more quickly to answer and obey, not the commands of the special interests, but those of the whole people. That is their purpose. Now turn for a moment to their proposed methods. No man would say that it was best to conduct all legislation by direct vote of the people-it would mean the loss of deliberation, of patient consideration but, on the other hand, no one whose mental arteries have not long since hardened can doubt that the proposed changes are needed when the legislatures refuse to carry out the will of the people. The proposal is a method to reach an undeniable evil. Then there is the recall of public officers the principle that an officer chosen by the people who is unfaithful may be recalled by vote of the majority before he finishes his term. I will speak of the recall of judges in a moment â€" leave that aside â€" but as to the other officers, I have heard no argument advanced against the proposition, save that it will make the public officer timid and always currying favor with the mob. That argument means that you can fool all the people all the time, and is an avowal of disbelief in democracy. If it be true and I believe it is not it is less important than to stop those public officers from currying favor with the interests. Certain States may

need the recall, others may not; where the term of elective office is short it may be quite needless; but there are occasions when it meets a real evil, and provides a needed check and balance against the special interests. Then there is the direct primary the real one, not the New York one and that, too, the Progressives offer as a check on the special interests. Most clearly of all does it seem to me that this change is wholly good for every State. The system of party government is not written in our constitutions, but it is none the less a vital and essential part of our form of government. In that system the party leaders should serve and carry out the will of their own party. There is no need to show how far that theory is from the facts, or to rehearse the vulgar thieving partnerships of the corporations and the bosses, or to show how many times the real government lies in the hands of the boss, protected from the commands and the revenge of the voters by his puppets in office and the power of patronage. We need not be told how he is thus intrenched nor how hard he is to overthrow. The facts stand out in the history of nearly every State in the Union. They are blots on our political system. The direct primary will give the voters a method ever ready to use, by which the party leader shall be made to obey their command. The direct primary, if accompanied by a stringent corrupt-practices act, will help break up the corrupt partnership of corporations and politicians. My opponents charge that two things in my programme are wrong because they intrude into the sanctuary of the judiciary. The first is the recall of judges; and the second, the review by the people of, judicial decisions on certain constitutional questions. I have said again and again that I do not advocate the recall of judges in all States and in all communities. In my own State I do not advocate it or believe it to be needed, for in this State our trouble lies not with corruption on the bench, but with the effort by the honest but wrong-headed judges to thwart the people in their struggle for social justice and fair dealing. The integrity of our judges from Marshall to White and Holmes and to Cullen and many others in our own State is a fine page of American history. But I say it soberly democracy has a right to approach the sanctuary of the courts when a special interest has corruptly found sanctuary there; and this is exactly what has happened in some of the States where the recall of the judges is a living issue. I would far more willingly trust the whole people to judge such a case than some special tribunal-perhaps appointed by the same power that chose the judge if that tribunal is not itself really responsible to the people and is hampered and clogged by the technicalities of impeachment proceedings. No one can successfully impeach this statement. It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare. I urge that in such cases where the courts construe the due process clause as if property rights, to the exclusion of human rights, had a first mortgage on the Constitution, the people may, after sober deliberation, vote, and finally determine whether the law which the court set aside shall be valid or not. By this method can be clearly and finally ascertained the preponderant opinion of the people which Justice Holmes makes the test of due process in the case of laws enacted in the exercise of the police power. The ordinary methods now in vogue of amending the Constitution have in actual practice proved wholly inadequate to secure justice in such cases with reasonable speed, and cause intolerable delay and injustice, and those who stand against the changes I propose are champions of wrong and injustice, and of tyranny by the wealthy and the strong over the weak and the helpless. So that no man may misunderstand me, let me recapitulate: And I contend that the people, in the nature of things, must be better judges of what is the preponderant opinion than the courts, and that the courts should not be allowed to reverse the political philosophy of the people. My point is well illustrated by a recent decision of the Supreme Court, holding that the court would not take jurisdiction of a case involving the constitutionality of the initiative and referendum laws of Oregon. The ground of the decision was that such a question was not judicial in its nature, but should be left for determination to the other coordinate departments of the government. Is it not equally plain that the question whether a given social policy is for the public good is not of a judicial nature, but should be settled by the legislature, or in the final instance by the people themselves? The President of the United States, Mr. Taft, devoted most of a recent speech to criticism of this proposition. It is wholly unfounded, unless it is founded on the belief that the people are fundamentally untrustworthy. This is the question that I propose to submit to the people. How can the prevailing morality or a preponderant opinion be better and more exactly ascertained than by a vote of the people? The people must know better than the court what their own morality and their own opinion is. I ask that you, here, you and the

others like you, you the people, be given the chance to state your own views of justice and public morality, and not sit meekly by and have your views announced for you by well-meaning adherents of outworn philosophies, who exalt the pedantry of formulas above the vital needs of human life. But my proposal seems to me more democratic and, I may add, less radical. For under the method I suggest the people may sustain the court as against the legislature, whereas, if due process were defined in the Constitution, the decision of the legislature would be final. Taft fairly defines the issue when he says that our government is and should be a government of all the people by a representative part of the people. This is an excellent and moderate description of all oligarchy. It defines our government as a government of all the people by a few of the people. Taft, in his able speech, has made what is probably the best possible presentation of the case for those who feel in this manner. Essentially this view differs only in its expression from the view nakedly set forth by one of his supporters, Congressman Campbell. Congressman Campbell, in a public speech in New Hampshire, in opposing the proposition to give the people real and effective control over all their servants, including the judges, stated that this was equivalent to allowing an appeal from the umpire to the bleachers. Doubtless Congressman Campbell was not himself aware of the cynical truthfulness with which he was putting the real attitude of those for whom he spoke. But it unquestionably is their real attitude. Campbell ignores the fact that the American people are not mere onlookers at a game, that they have a vital stake in the contest, and that democracy means nothing unless they are able and willing to show that they are their own masters. I am not speaking jokingly, nor do I mean to be unkind; for I repeat that many honorable and well-meaning men of high character take this view, and have taken it from the time of the formation of the nation. Essentially this view is that the Constitution is a straight-jacket to be used for the control of an unruly patient the people. Now, I hold that this view is not only false but mischievous, that our constitutions are instruments designed to secure justice by securing the deliberate but effective expression of the popular will, that the checks and balances are valuable as far, and only so far, as they accomplish that deliberation, and that it is a warped and unworthy and improper construction of our form of government to see in it only a means of thwarting the popular will and of preventing justice. That seems to me a very serious misconception of the American political situation. The real trouble with us is that some classes have had too much voice. One of the most important of all the lessons to be taught and to be learned is that a man should vote, not as a representative of a class, but merely as a good citizen, whose prime interests are the same as those of all other good citizens. The belief in different classes, each having a voice in the government, has given rise to much of our present difficulty; for whosoever believes in these separate classes, each with a voice, inevitably, even although unconsciously, tends to work, not for the good of the whole people, but for the protection of some special class-usually that to which he himself belongs. The same principle applies when Mr. This is perfectly true of the judge when he is performing merely the ordinary functions of a judge in suits between man and man. It is not true of the judge engaged in interpreting, for instance, the due process clause where the judge is ascertaining the preponderant opinion of the people as Judge Holmes states it. When he exercises that function he has no right to let his political philosophy reverse and thwart the will of the majority. In that function the judge must represent the people or he fails in the test the Supreme Court has laid down. The legislators gave us a law in the interest of humanity and decency and fair dealing. In so doing they represented the people, and represented them well. Several judges declared that law constitutional in our State, and several courts in other States declared similar laws constitutional, and the Supreme Court of the nation declared a similar law affecting men in interstate business constitutional; but the highest court in the State of New York, the court of appeals, declared that we, the people of New York, could not have such a law. I hold that in this case the legislators and the judges alike occupied representative positions; the difference was merely that the former represented us well and the latter represented us ill. Remember that the legislators promised that law, and were returned by the people partly in consequence of such promise. That judgment of the people should not have been set aside unless it were irrational.

Chapter 4 : Human rights - Simple English Wikipedia, the free encyclopedia

*The Rights of the People: How Our Search for Safety Invades Our Liberties [David K. Shipler] on www.nxgvision.com *FREE* shipping on qualifying offers. From the best-selling author of The Working Poor, an impassioned, incisive look at the violations of civil liberties in the United States that have accelerated over the past decadeâ€"and their direct impact on our lives.*

Charles Pratt, 1st Earl Camden established the English common law precedent against general search warrants. Like many other areas of American law, the Fourth Amendment finds its roots in English legal doctrine. In , the colony of Massachusetts barred the use of general warrants. This represented the first law in American history curtailing the use of seizure power. Its creation largely stemmed from the great public outcry over the Excise Act of , which gave tax collectors unlimited powers to interrogate colonists concerning their use of goods subject to customs. All writs automatically expired six months after the death of the King, and would have had to be re-issued by George III , the new king, to remain valid. During the five-hour hearing on February 23, , Otis vehemently denounced British colonial policies, including their sanction of general warrants and writs of assistance. The governor overturned the legislation, finding it contrary to English law and parliamentary sovereignty. This prohibition became a precedent for the Fourth Amendment: All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: United States Bill of Rights After several years of comparatively weak government under the Articles of Confederation , a Constitutional Convention in Philadelphia proposed a new constitution on September 17, , featuring a stronger chief executive and other changes. Other delegatesâ€"including future Bill of Rights drafter James Madison â€"disagreed, arguing that existing state guarantees of civil liberties were sufficient and that any attempt to enumerate individual rights risked the implication that other, unnamed rights were unprotected. Supporters of the Constitution in states where popular sentiment was against ratification including Virginia, Massachusetts, and New York successfully proposed that their state conventions both ratify the Constitution and call for the addition of a bill of rights. On December 19, , December 22, , and January 19, , respectively, Maryland, North Carolina, and South Carolina ratified all twelve amendments. Connecticut and Georgia found a Bill of Rights unnecessary and so refused to ratify, while Massachusetts ratified most of the amendments, but failed to send official notice to the Secretary of State that it had done so. All three states would later ratify the Bill of Rights for sesquicentennial celebrations in Virginia initially postponed its debate, but after Vermont was admitted to the Union in , the total number of states needed for ratification rose to eleven. Vermont ratified on November 3, , approving all twelve amendments, and Virginia finally followed on December 15, Wood , "After ratification, most Americans promptly forgot about the first ten amendments to the Constitution. As federal criminal jurisdiction expanded to include other areas such as narcotics , more questions about the Fourth Amendment came to the Supreme Court. Supreme Court responded to these questions by outlining the fundamental purpose of the amendment as guaranteeing "the privacy, dignity and security of persons against certain arbitrary and invasive acts by officers of the Government, without regard to whether the government actor is investigating crime or performing another function". Ohio , [31] the U. The Supreme Court further held in Chandler v. United States , which expanded Fourth Amendment protections to electronic surveillance. One threshold question in the Fourth Amendment jurisprudence is whether a "search" has occurred. Early 20th-century Court decisions, such as Olmstead v. United States , held that Fourth Amendment rights applied in cases of physical intrusion, but not to other forms of police surveillance e. United States , the Court stated of the amendment that "at the very core stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion". While there was no physical intrusion into the booth, the Court reasoned that: Justice Potter Stewart wrote in the majority opinion that "the Fourth Amendment protects people, not places". Maryland , [47] for determining whether a search has occurred for purposes of the Fourth

Amendment: The Supreme Court has held that the Fourth Amendment does not apply to information that is voluntarily shared with third parties. United States , individuals do have a reasonable expectation of privacy regarding cell phone records that would reveal where that person had traveled over many months and so law enforcement must get a search warrant before obtaining such records. Jones , the Court ruled that the Katz standard did not replace earlier case law, but rather, has supplemented it. The Court concluded that Jones was a bailee to the car, and so had a property interest in the car. The Court used similar "trespass" reasoning in Florida v. Jardines , to rule that bringing a drug detection dog to sniff at the front door of a home was a search. Ohio , law enforcement officers are permitted to conduct a limited warrantless search on a level of suspicion less than probable cause under certain circumstances. In Terry, the Supreme Court ruled that when a police officer witnesses "unusual conduct" that leads that officer to reasonably believe "that criminal activity may be afoot", that the suspicious person has a weapon and that the person is presently dangerous to the officer or others, the officer may conduct a "pat-down search" or "frisk" to determine whether the person is carrying a weapon. To conduct a frisk, officers must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant their actions. Royer , such a search must be temporary, and questioning must be limited to the purpose of the stop e. The exclusionary rule would not bar voluntary answers to such questions from being offered into evidence in a subsequent criminal prosecution. The person is not being seized if his freedom of movement is not restrained. His refusal to listen or answer does not by itself furnish such grounds. Mendenhall , the Court held that a person is seized only when, by means of physical force or show of authority, his freedom of movement is restrained and, in the circumstances surrounding the incident, a reasonable person would believe that he was not free to leave. Bostick , the Court ruled that as long as the police do not convey a message that compliance with their requests is required, the police contact is a "citizen encounter" that falls outside the protections of the Fourth Amendment. A person subjected to a routine traffic stop on the other hand, has been seized, but is not "arrested" because traffic stops are a relatively brief encounter and are more analogous to a Terry stop than to a formal arrest. King , the Court upheld the constitutionality of police swabbing for DNA upon arrests for serious crimes, along the same reasoning that allows police to take fingerprints or photographs of those they arrest and detain. In United States v. Martinez-Fuerte , the Supreme Court allowed discretionless immigration checkpoints. Sitz , the Supreme Court allowed discretionless sobriety checkpoints. Lidster , the Supreme Court allowed focused informational checkpoints. Edmond , the Supreme Court ruled that discretionary checkpoints or general crime-fighting checkpoints are not allowed. A court grants permission by issuing a writ known as a warrant. A search or seizure is generally unreasonable and unconstitutional if conducted without a valid warrant [78] and the police must obtain a warrant whenever practicable. Supreme Court carved out an exception to the requirement of individualized suspicion. It ruled that, "In limited circumstances, where the privacy interests implicated by the search are minimal and where an important governmental interest furthered by the intrusion would be placed in jeopardy by a requirement of individualized suspicion" a search [or seizure] would still be reasonable. Probable cause The standards of probable cause differ for an arrest and a search. The government has probable cause to make an arrest when "the facts and circumstances within their knowledge and of which they had reasonably trustworthy information" would lead a prudent person to believe that the arrested person had committed or was committing a crime. Evidence obtained after the arrest may not apply retroactively to justify the arrest. They must have legally sufficient reasons to believe a search is necessary. United States , the Supreme Court stated that probable cause to search is a flexible, common-sense standard. A "practical, non-technical" probability that incriminating evidence is involved is all that is required. Gates , the Court ruled that the reliability of an informant is to be determined based on the " totality of the circumstances ". Consent search If a party gives consent to a search, a warrant is not required. Bustamonte , the Court ruled that a consent search is still valid even if the police do not inform a suspect of his right to refuse the search. Randolph , the Supreme Court ruled that when two co-occupants are both present, one consenting and the other rejecting the search of a shared residence, the police may not make a search of that residence within the consent exception to the warrant requirement. Rodriguez , [99] a consent search is still considered valid if police accept in good faith the consent of an "apparent authority", even if that party is later

discovered to not have authority over the property in question. Plain view doctrine and Open-fields doctrine According to the plain view doctrine as defined in Coolidge v. New Hampshire , [] if an officer is lawfully present, he may seize objects that are in "plain view". However, the officer must have had probable cause to believe that the objects are contraband. Hicks , the Supreme Court held that an officer stepped beyond the plain view doctrine when he moved a turntable in order to view its serial number to confirm that the turntable was stolen. The doctrine was first articulated by the Court in Hester v. The Supreme Court ruled that no search had taken place, because there was no privacy expectation regarding an open field: There is no societal interest in protecting the privacy of those activities, such as the cultivation of crops, that occur in open fields. The curtilage is "intimately linked to the home, both physically and psychologically," and is where "privacy expectations are most heightened. However, they cannot bring a drug detection dog to sniff at the front door of a home without either a warrant or consent of the homeowner or resident. Exigent circumstance in United States law Law enforcement officers may also conduct warrantless searches in several types of exigent circumstances where obtaining a warrant is dangerous or impractical. One example is the Terry stop , which allows police to frisk suspects for weapons. United States to preserve evidence that might otherwise be destroyed and to ensure suspects were disarmed. United States , [87] the Court ruled that law enforcement officers could search a vehicle that they suspected of carrying contraband without a warrant. Hayden provided an exception to the warrant requirement if officers were in "hot pursuit" of a suspect. Motor vehicle exception The Supreme Court has held that individuals in automobiles have a reduced expectation of privacy, because 1 vehicles generally do not serve as residences or repositories of personal effects, and 2 vehicles "can be quickly moved out of the locality or jurisdiction in which the warrant must be sought. Items in plain view may be seized; areas that could potentially hide weapons may also be searched. With probable cause to believe evidence is present, police officers may search any area in the vehicle. Gant , [] the Court ruled that a law enforcement officer needs a warrant before searching a motor vehicle after an arrest of an occupant of that vehicle, unless 1 at the time of the search the person being arrested is unsecured and within reaching distance of the passenger compartment of the vehicle or 2 police officers have reason to believe that evidence for the crime for which the person is being arrested will be found in the vehicle. Searches incident to a lawful arrest A common law rule from Great Britain permits searches incident to an arrest without a warrant. This rule has been applied in American law, and has a lengthy common law history. Supreme Court ruled that "both justifications for the search-incident-to-arrest exception are absent and the rule does not apply", when "there is no possibility" that the suspect could gain access to a weapon or destroy evidence. United States , the Supreme Court held that "a search or seizure without a warrant as an incident to a lawful arrest has always been considered to be a strictly limited right. It grows out of the inherent necessities of the situation at the time of the arrest. But there must be something more in the way of necessity than merely a lawful arrest. Rabinowitz suggested that any area within the "immediate control" of the arrestee could be searched, but it did not define the term. California , the Supreme Court elucidated its previous decisions. It held that when an arrest is made, it is reasonable for the officer to search the arrestee for weapons and evidence. Border search exception Searches conducted at the United States border or the equivalent of the border such as an international airport may be conducted without a warrant or probable cause subject to the border search exception. Customs and Border Protection plenary search authority. District Court [] left open the possibility for a foreign intelligence surveillance exception to the warrant clause.

Chapter 5 : Amendment IX - The United States Constitution

Introduction: Rights of the People We hold these Truths to be self evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of.

The Rights and Freedoms of Americans From: But when the Constitution was sent to the states in for ratification, a great roar of disapproval went up. In Virginia, Patrick Henry protested vigorously against the lack of a specific statement of rights. Other Americans from different states demanded that a Bill of Rights be added to the Constitution. A number of states ratified the Constitution only conditionally. That is, they would approve the Constitution only if it were changed to include these rights. Two years after the new American government went into effect, the Bill of Rights was added as the first ten amendments to the Constitution. Congress discussed nearly proposals for amendments before it presented these ten to the states for approval. The states ratified these amendments, and they became part of the Constitution in A brief summary of these great freedoms is given here. This right is guaranteed in the First Amendment. Freedom of religion guarantees to all Americans the right to practice any religion they choose, or to practice no religion at all. Congress cannot favor any one religion over others or tax citizens in order to support any one religion. Freedom of speech also means the right to listen to the thoughts and opinions of others. This freedom guarantees that Americans are free to express their thoughts and ideas about anything. They may talk freely to their friends and neighbours or speak in public to a group of people. Of course, no one may use his freedom of speech to injure others. If a person knowingly says things that are false about another, he may be sued in court by the person or persons who believe they have been harmed by what he said. Americans are free to express opinions about their government or anything else. They are free to criticize the actions of the government and of government officials. They do not dare to criticize the actions of the government. If they do, they may be imprisoned. But all Americans enjoy the freedom of speech, which is guaranteed in the First Amendment. This freedom is closely related to freedom of speech and is also guaranteed by the First Amendment. Freedom of the press gives all Americans the right to express their ideas and thoughts freely in writing. This writing may be in newspapers, books, magazines, or any other printed or written form. Americans are also free to read what others write. They may read any newspaper, book or magazine they want. Because they are free to read a variety of facts and opinions, Americans can become better-informed citizens. Americans are free to meet together to discuss problems and to plan their actions. Of course, such meetings must be carried on in a peaceful way. The First Amendment contains this guarantee, also. The freedom of petition gives you the right to write to your Congressman and request him to work for the passage of laws you favor. You are free to ask him to change laws that you do not like. The right of petition also helps government officials to know what Americans think and what actions they want the government to take. In the early years of our nation, Americans needed weapons in order to serve in the militia, or volunteer armies, that were established to defend our states. The militia provided protection during emergencies, too. Many Americans also believed that without weapons they would be powerless if the government tried to overstep its powers and rule by force. As a result, Americans wanted this practice forbidden under the Bill of Rights. Amendments Five, Six, Seven, and Eight are all concerned with these rights. Our nation places great importance on these rights in order to guarantee equal justice for all Americans. A person must be indicted, or formally accused of a crime, by a group of citizens called a "grand jury" before he can be brought into court for trial. A person accused of a crime is guaranteed the right to know what law he is accused of breaking. A person accused of a crime has a right to a prompt public trial by a jury of his fellow citizens. An accused person cannot be put into prison and kept there for weeks or months while awaiting a trial. He has the right to leave jail, in most cases, if he can raise a certain sum of money, or bail, as a pledge that he will appear at his trial. An accused person has a right to a lawyer to represent him in court. All the testimony and evidence against an accused person must be presented publicly in court. The accused person has the right to call any witnesses to appear if their testimony will help him. The accused person cannot be forced to testify or give evidence against himself. If the accused person is found guilty, he cannot be given cruel or unusual punishment. If the accused person is found not

guilty of a serious crime, he cannot be tried a second time for this same crime. No person may take away anything that we own. Nor can the government seize our land, money, or other forms of property without cause, or without paying for it. Our free economic system is based upon this right. This amendment states that the list of rights contained in the Bill of Rights is not complete. There are many other rights that all Americans have and will continue to have even though they are not mentioned in the Bill of Rights. Among them are the following. Freedom to live or travel anywhere in our nation Freedom to work at any job for which we can qualify Freedom to marry and raise a family Freedom to receive a free education in good public schools Freedom to join a political party, a union, and other legal groups As a final guarantee of our rights, the Tenth Amendment set aside many powers of government for the states. This Amendment says that all powers not given to the federal government by the Constitution, nor forbidden to the states, are set aside for the states, or for the people. This provision leaves with the states the power to act in many ways to guarantee the rights of their citizens. Governments serve many important purposes, but the most important one is that government makes it possible for people to live and work together. Government provides us with rules of conduct we can follow. Government makes it possible for people to live by known laws, and helps provide many services that citizens acting alone could not perform themselves. This Constitution, together with its Bill of Rights and other amendments, provides us with a workable plan of government. The Constitution also guarantees to all Americans many priceless rights and freedoms. It is a federal system in which certain powers are given to the national government and other powers are left to the states and to the people. Certain powers are shared by both federal and state governments. In both federal and state governments, powers are separated and balanced among three branches of government.

Chapter 6 : Rights - Wikipedia

Constitutional Rights, Powers and Duties Discussions of rights are sometimes confused concerning what are and are not rights of the people or powers of government or the duties of each. This is an attempt to summarize most of the more important rights, powers, and duties recognized or established in the U.S. Constitution, in Common Law as it.

Full Document THE great fundamental issue now before the Republican party and before our people can be stated briefly. Are the American people fit to govern themselves, to rule themselves, to control themselves? I believe they are. My opponents do not. I believe in the right of the people to rule. I have scant patience with this talk of the tyranny of the majority. Wherever there is tyranny of the majority, I shall protest against it with all my heart and soul. It is a small minority that is grabbing our coal-deposits, our water-powers, and our harbor fronts. It is a small minority that lies behind monopolies and trusts. The only tyrannies from which men, women, and children are suffering in real life are the tyrannies of minorities. I am not thinking only of those special interests which by grosser methods, by bribery and crime, have stolen from the people. Am I overstating the case? The questions need no answer. That is their purpose. Now turn for a moment to their proposed methods. The proposal is a method to reach an undeniable evil. Then there is the direct primary the real one, not the New York one and that, too, the Progressives offer as a check on the special interests. Most clearly of all does it seem to me that this change is wholly good for every State. The system of party government is not written in our constitutions, but it is none the less a vital and essential part of our form of government. In that system the party leaders should serve and carry out the will of their own party. The facts stand out in the history of nearly every State in the Union. They are blots on our political system. The direct primary will give the voters a method ever ready to use, by which the party leader shall be made to obey their command. My opponents charge that two things in my programme are wrong because they intrude into the sanctuary of the judiciary. The first is the recall of judges; and the second, the review by the people of, judicial decisions on certain constitutional questions. I have said again and again that I do not advocate the recall of judges in all States and in all communities. No one can successfully impeach this statement. So that no man may misunderstand me, let me recapitulate: The President of the United States, Mr. Taft, devoted most of a recent speech to criticism of this proposition. This is the question that I propose to submit to the people. The people must know better than the court what their own morality and their own opinion is. But my proposal seems to me more democratic and, I may add, less radical. This is an excellent and moderate description of all oligarchy. Taft, in his able speech, has made what is probably the best possible presentation of the case for those who feel in this manner. Essentially this view differs only in its expression from the view nakedly set forth by one of his supporters, Congressman Campbell. But it unquestionably is their real attitude. I am not speaking jokingly, nor do I mean to be unkind; for I repeat that many honorable and well-meaning men of high character take this view, and have taken it from the time of the formation of the nation. Essentially this view is that the Constitution is a straight-jacket to be used for the control of an unruly patient the people. That seems to me a very serious misconception of the American political situation. The real trouble with us is that some classes have had too much voice. One of the most important of all the lessons to be taught and to be learned is that a man should vote, not as a representative of a class,but merely as a good citizen, whose prime interests are the same as those of all other good citizens. The same principle applies when Mr. When he exercises that function he has no right to let his political philosophy reverse and thwart the will of the majority. The legislators gave us a law in the interest of humanity and decency and fair dealing. Remember that the legislators promised that law, and were returned by the people partly in consequence of such promise. That judgment of the people should not have been set aside unless it were irrational. I should much like to know the exact distinction that is to be made between what Mr. In one of Mr. Taft is very much afraid of the tyranny of majorities.

Chapter 7 : Bill of Rights | Constitution | US Law | LII / Legal Information Institute

Free Speech For People supports the People's Rights Amendment, introduced in the th Congress, which includes a Senate amendment bill S.J. Res (th Congress) and an accompanying House amendment bill www.nxgvision.com (th Congress) re-introduced in the th Congress.

Do our rights come from: God the Supreme Court, or the government? Our future depends on knowing the truth. I will explain four positions â€" show you which one is true â€" and why the other three, which most people believe, are wrong, and are leading to the destruction of our country. We begin with what is true. The Declaration of Independence Our Declaration says our rights come from God, thus our rights predate and pre-exist the Constitution. Our Declaration says this: We hold these truths to be self-evident, that all men are created equal, that they are 1 endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That 2 to secure these rights, Governments are instituted among Men, 3 deriving their just powers from the consent of the governed. From this one paragraph, we learn three foundational principles of our Constitutional Republic: Our rights are unalienable and come from God. The purpose of Civil Government is to protect our God-given rights. Civil government is legitimate only when it operates with our consent. Constitution is the formal expression of our consent. We the People Thus, the federal government operates with our consent only when it obeys the Constitution. The Creator as grantor of rights Because the Declaration identifies the Creator as the grantor of rights, we look to the Bible, or to the Natural Law, to see what those rights are. These sources reveal more rights: Life, liberty, pursuit of happiness self defense to inherit, earn, and keep property the right and duty to demand that civil authorities obey the law the right to live our lives free from interference from civil government the right to worship God The distinguishing characteristic of all God-given, or Natural rights, is this: Each right may be held and enjoyed at no cost or expense to anyone else. Our God-given rights do not put us in conflict with each other. We may look them up for ourselves. Many believe that our rights come from amendments to the Constitution So, they speak of: I will show you two reasons why this is a pernicious error. The Preamble to the Constitution says: We are the creator. The federal government is merely our creature. So, The Constitution is about the specific powers which We the People delegate to the federal government. Here is the second reason why it is a grievous error to say our rights come from the Constitution. Article 3, Section 2, Clause 1 of the Constitution states: The judicial Power shall extend to all Casesâ€¦arising under this Constitutionâ€¦ Listen carefully: I will show you how they have perverted the First Amendment. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. All it does is prohibit Congress from making laws restricting these activities. Note also that the First Amendment restricts only Congress. It does not address states. States may establish any religion they want. And of course states may restrict speech. But federal judges treat the First Amendment as the source of our rights to free speech. Since it arises under the Constitution, they claim judicial power over it. And thus, power to decide what speech is protected under the First Amendment and what speech is not protected. They claim power under the First Amendment to regulate corporate political speech. They claim power under the First Amendment to force us to take down postings of the Ten Commandments. They forbid children to pray in public schools. They claim power under the first Amendment to overturn state laws, which properly restrict speech. In the Westboro Baptist case, the father of an American soldier who was killed in action sued the Westboro people on tort theories of defamation and intentional infliction of emotional distress, as permitted by the law of the state in which the funeral took place. Pornographers have a First Amendment right to diseminate porn. So, state laws outlawing porn also bite the dust. But posting the Ten Commandments is not protected speech. Neither is praying in public schools. Since it is not protected speech, they ban it. Do you see how perverted their rulings are? Do you see how they undermine the moral order? When we babble about constitutional rights, when we clamor to have new rights added to the Constitution, we are submitting our rights to the tender mercies of federal judges. Because Article 3, Section 2, clause 1 gives them power over all

cases arising under this Constitution. This is why we must always insist that our rights have a source â€" Almighty God, which transcends the Constitution. You ask â€" why did the framers add the first ten amendments if they were such a bad idea? There was controversy over this. Alexander Hamilton warned that bills of rights were dangerous because they grant a pretext for regulating for those inclined to usurp. And he was right! The first ten amendments have given the Supreme Court a pretext for usurping power over our rights, as well as over state laws which restrict speech which five people on the Supreme Court want to legalize. So, the proper way to look at the first ten amendments is this â€" they are not the source of our rights, since our rights come from God, and thus transcend the Constitution. They are merely a partial list of some things the federal government may not do: And, some things they must do: Supreme Court as grantor of rights Here is the Third position: The original intent of the 14th Amendment was to protect freed slaves from southern Black Codes which denied them basic rights of citizenship. Section 1 of the 14th Amendment reads, in part: And by the way, this original intent of the 14th Amendment is proved by means of thousands of quotes from the Congressional Record, by Professor Raoul Berger in his book Government by Judiciary: The Transformation of the 14th Amendment , and this is online. In , in Roe v. In in Lawrence v. We will soon find out how many judges on the Supreme Court find in the same clause a right to marry persons of the same sex. These are not among the enumerated powers granted to any branch of the federal government. When we substitute judges for God as the source of our rights, the entire concept of rights is perverted, literally. Here is the fourth position: The liberals and the progressives say our rights come from government. Everyone who has his hand out is clamoring to have other people pay more. That is because it undermines our God-given rights to private property, to the fruits of our own labors, and to Liberty. To hold that people may be plundered by civil government for the ostensible benefit of others is slavery. What must we do? As a people, we have stopped thinking. We uncritically accept whatever we hear on the radio and TV. Even when what is said contradicts the plain words of the Declaration and the Constitution. When people, no matter who they are, say things which contradict the Declaration and the Constitution, challenge them. But before we can challenge them we must learn. Become familiar with the Declaration and the Constitution. These are amazing documents, jewels of Western Civilization. You do not have to be a lawyer to have a working knowledge of them. Look things up in the Federalist Papers. I now knew more about the Interstate Commerce Clause than any federal judge in the country! Because we all learned in law school that the Interstate Commerce Clause means whatever the Supreme Court has said it means in its last opinion. Then we can speak the truth. Perhaps we can turn back the tide of ignorance and evil which is taking over our country.

Chapter 8 : North Korea | World | Asia | Human Rights Watch

people" throughout the Bill of Rights by limiting "the people" to "members of the political community," which might be interpreted to mean, inter alia, "eligible voters.".

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination. One of the great achievements of the United Nations is the creation of a comprehensive body of human rights lawâ€”a universal and internationally protected code to which all nations can subscribe and all people aspire. The United Nations has defined a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights. It has also established mechanisms to promote and protect these rights and to assist states in carrying out their responsibilities. The foundations of this body of law are the Charter of the United Nations and the Universal Declaration of Human Rights , adopted by the General Assembly in and , respectively. Since then, the United Nations has gradually expanded human rights law to encompass specific standards for women, children, persons with disabilities, minorities and other vulnerable groups, who now possess rights that protect them from discrimination that had long been common in many societies. It sets out, for the first time, fundamental human rights to be universally protected. The human rights that the Covenant seeks to promote and protect include: The Covenant had states parties by the end of The Second Optional Protocol was adopted in The Covenant deals with such rights as freedom of movement; equality before the law; the right to a fair trial and presumption of innocence; freedom of thought, conscience and religion; freedom of opinion and expression; peaceful assembly; freedom of association; participation in public affairs and elections; and protection of minority rights. It prohibits arbitrary deprivation of life; torture, cruel or degrading treatment or punishment; slavery and forced labour; arbitrary arrest or detention; arbitrary interference with privacy; war propaganda; discrimination; and advocacy of racial or religious hatred. Human Rights Conventions A series of international human rights treaties and other instruments adopted since have expanded the body of international human rights law. The Council is made up of 47 State representatives and is tasked with strengthening the promotion and protection of human rights around the globe by addressing situations of human rights violations and making recommendations on them, including responding to human rights emergencies. The High Commissioner is mandated to respond to serious violations of human rights and to undertake preventive action. It serves as the secretariat for the Human Rights Council, the treaty bodies expert committees that monitor treaty compliance and other UN human rights organs. Individuals, whose rights have been violated can file complaints directly to Committees overseeing human rights treaties. Human Rights and the UN System Human rights is a cross-cutting theme in all UN policies and programmes in the key areas of peace and security, development, humanitarian assistance, and economic and social affairs. As a result, virtually every UN body and specialized agency is involved to some degree in the protection of human rights. Some examples are the right to development , which is at the core of the Sustainable Development Goals ; the right to food, championed by the UN Food and Agriculture Organization, labour rights, defined and protected by the International Labour Organization, gender equality, which is promulgated by UN Women, the rights of children, indigenous peoples, and disabled persons. Human rights day is observed every year on 10 December.

Chapter 9 : The Rights and Freedoms of Americans

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people. Amendment X The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Definitional issues[edit] Rights are widely regarded as the basis of law, but what if laws are bad? Some theorists suggest civil disobedience is, itself, a right, and it was advocated by thinkers such as Henry David Thoreau , Martin Luther King Jr. There is considerable disagreement about what is meant precisely by the term rights. It has been used by different groups and thinkers for different purposes, with different and sometimes opposing definitions, and the precise definition of this principle, beyond having something to do with normative rules of some sort or another, is controversial. One way to get an idea of the multiple understandings and senses of the term is to consider different ways it is used. Many diverse things are claimed as rights: What actions or states or objects the asserted right pertains to: Rights of free expression, to pass judgment; rights of privacy, to remain silent; property rights, bodily rights. Why the rightholder allegedly has the right: Moral rights spring from moral reasons, legal rights derive from the laws of the society, customary rights are aspects of local customs. The inalienable right to life, the forfeitable right to liberty, and the waivable right that a promise be kept. Natural versus legal[edit] Main article: Natural and legal rights Natural rights are rights which are "natural" in the sense of "not artificial, not man-made", as in rights deriving from human nature or from the edicts of a god. They are universal; that is, they apply to all people, and do not derive from the laws of any specific society. For example, it has been argued that humans have a natural right to life. These are sometimes called moral rights or inalienable rights. An example of a legal right is the right to vote of citizens. Citizenship , itself, is often considered as the basis for having legal rights, and has been defined as the "right to have rights". Legal rights are sometimes called civil rights or statutory rights and are culturally and politically relative since they depend on a specific societal context to have meaning. Some thinkers see rights in only one sense while others accept that both senses have a measure of validity. There has been considerable philosophical debate about these senses throughout history. For example, Jeremy Bentham believed that legal rights were the essence of rights, and he denied the existence of natural rights; whereas Thomas Aquinas held that rights purported by positive law but not grounded in natural law were not properly rights at all, but only a facade or pretense of rights. Claim versus liberty[edit] A deed is an example of a claim right in the sense that it asserts a right to own land. This particular deed dates back to Claim rights and liberty rights A claim right is a right which entails that another person has a duty to the right-holder. Somebody else must do or refrain from doing something to or for the claim holder, such as perform a service or supply a product for him or her; that is, he or she has a claim to that service or product another term is thing in action. This duty can be to act or to refrain from acting. Likewise, in jurisdictions where social welfare services are provided, citizens have legal claim rights to be provided with those services. Liberty rights and claim rights are the inverse of one another: For example, a person has a liberty right to walk down a sidewalk and can decide freely whether or not to do so, since there is no obligation either to do so or to refrain from doing so. Positive versus negative[edit] Main article: Negative and positive rights In one sense, a right is a permission to do something or an entitlement to a specific service or treatment from others, and these rights have been called positive rights. However, in another sense, rights may allow or require inaction, and these are called negative rights; they permit or require doing nothing. For example, in some countries, e. In other countries, e. Positive rights are permissions to do things, or entitlements to be done unto. One example of a positive right is the purported "right to welfare. Often the distinction is invoked by libertarians who think of a negative right as an entitlement to non-interference such as a right against being assaulted. Individual versus group[edit] Main article: Individual and group rights The general concept of rights is that they are possessed by individuals in the sense that they are permissions and entitlements to do things which other persons, or which governments or authorities, can not infringe. This is the understanding of people such as the author Ayn Rand who argued that only individuals have rights, according to her philosophy known as Objectivism.

Individual rights are rights held by individual people regardless of their group membership or lack thereof. Do groups have rights? Some argue that when soldiers bond in combat , the group becomes like an organism in itself and has rights which trump the rights of any individual soldier. Group rights have been argued to exist when a group is seen as more than a mere composite or assembly of separate individuals but an entity in its own right. For example, a platoon of soldiers in combat can be thought of as a distinct group, since individual members are willing to risk their lives for the survival of the group, and therefore the group can be conceived as having a "right" which is superior to that of any individual member; for example, a soldier who disobeys an officer can be punished, perhaps even killed, for a breach of obedience. But there is another sense of group rights in which people who are members of a group can be thought of as having specific individual rights because of their membership in a group. In this sense, the set of rights which individuals-as-group-members have is expanded because of their membership in a group. For example, workers who are members of a group such as a labor union can be thought of as having expanded individual rights because of their membership in the labor union, such as the rights to specific working conditions or wages. As expected, there is sometimes considerable disagreement about what exactly is meant by the term "group" as well as by the term "group rights. A classic instance in which group and individual rights clash is conflicts between unions and their members. For example, individual members of a union may wish a wage higher than the union-negotiated wage, but are prevented from making further requests; in a so-called closed shop which has a union security agreement , only the union has a right to decide matters for the individual union members such as wage rates. So, do the supposed "individual rights" of the workers prevail about the proper wage? Or do the "group rights" of the union regarding the proper wage prevail? Clearly this is a source of tension. The Austrian School of Economics holds that only individuals think, feel, and act whether or not members of any abstract group. The society should thus according to economists of the school be analyzed starting from the individual. This methodology is called methodological individualism and is used by the economists to justify individual rights. Other senses[edit] Other distinctions between rights draw more on historical association or family resemblance than on precise philosophical distinctions. These include the distinction between civil and political rights and economic, social and cultural rights , between which the articles of the Universal Declaration of Human Rights are often divided. Another conception of rights groups them into three generations. These distinctions have much overlap with that between negative and positive rights , as well as between individual rights and group rights , but these groupings are not entirely coextensive. Politics[edit] In the United States , persons who are going to be questioned by police when they are in police custody must be read their "Miranda rights". The Miranda warning requires police officers to read a statement to people being arrested which informs them that they have certain rights, such as the right to remain silent and the right to have an attorney. Rights are often included in the foundational questions that governments and politics have been designed to deal with. Often the development of these socio-political institutions have formed a dialectical relationship with rights. Rights about particular issues, or the rights of particular groups, are often areas of special concern. Often these concerns arise when rights come into conflict with other legal or moral issues, sometimes even other rights. With increasing monitoring and the information society, information rights , such as the right to privacy are becoming more important. Some examples of groups whose rights are of particular concern include animals , [6] and amongst humans , groups such as children [7] and youth , parents both mothers and fathers , and men and women. The concept of rights varies with political orientation. Positive rights such as a "right to medical care" are emphasized more often by left-leaning thinkers, while right-leaning thinkers place more emphasis on negative rights such as the "right to a fair trial". Conservatives and libertarians and advocates of free markets often identify equality with equality of opportunity , and want equal and fair rules in the process of making things, while agreeing that sometimes these fair rules lead to unequal outcomes. In contrast, socialists often identify equality with equality of outcome and see fairness when people have equal amounts of goods and services, and therefore think that people have a right to equal portions of necessities such as health care or economic assistance or housing. Meta-ethics is one of the three branches of ethics generally recognized by philosophers, the others being normative ethics and applied ethics. While normative ethics addresses such questions as "What should one do? Rights ethics is an answer to the

meta-ethical question of what normative ethics is concerned with Meta-ethics also includes a group of questions about how ethics comes to be known, true, etc. Rights ethics holds that normative ethics is concerned with rights. Alternative meta-ethical theories are that ethics is concerned with one of the following: