

# 8.1 The Unalienable Rights

*Government and Politics*

Essential question for this unit

*How much power should the government have?*

# Commitment to Individual Rights

A commitment to personal freedom is deeply rooted in America's colonial past (first couple units of our class).

Unlike many of the first State constitutions, the new national Constitution did not include a general listing of the rights of the people (Federalists vs. Anti-Federalists debate).

# Commitment to Individual Rights

Ratification of the Constitution was a result of compromise; the addition of the **bill of Rights - first 10 amendments to the Constitution**

The Constitution guarantees both rights and liberties of the American people.

# Civil Liberties and Civil Rights

## **Civil liberties - protections against government**

basic rights and freedoms that are guaranteed - either identified in the Bill of Rights and the Constitution, or interpreted through the years by courts and lawmakers.

freedom of religion, speech, press, fair trials

# Civil Liberties and Civil Rights

## **Civil Rights - positive acts of government**

the basic right to be free from unequal treatment based on certain protected characteristics (race, gender, disability, etc.) in settings such as employment and housing.

laws against discrimination on basis of race (Civil Rights Act of 1964)

# Limited Government

The U.S. government is limited in order to guarantee many of the personal freedoms.

## Personal interests and the public good

Constitution guarantees many rights to everyone

Still, no one has the right to anything they please

Sometimes the public good takes precedence over the personal interests and desires of citizens

# Limited Government

## Conflicting rights

On occasion, rights come into conflict with one another.

Example: freedom of the press versus the right to a fair trial (legal teams ask for change of venues)



# Limited Government

To whom are rights guaranteed?

Most constitutional rights are extended to all persons

Limitations

Aliens - people who are not citizens, have some limitations

Japanese Internment camps

War on terror

# 14th Amendment and Federalism

The structure of the U.S. government system complicates the protection of rights.

Federalism - division of power between federal and state government

It is a challenging relationship that creates problems sometimes regarding guarantees of individual rights

# 14th Amendment and Federalism

## Bill of Rights and the States

First 10 amendments were originally intended as restrictions on the new Federal Government.

States had their own bill of rights.

As a result of federalism, the question arose how a person's rights granted under the U.S Constitution are protected from laws enacted by the states.

# 14th Amendment and Federalism

## Extending the Bill of Rights to the States

14th Amendment (part of the Reconstruction period)

**Due process clause - guarantees that no state deny basic rights to its people**

But what rights are “basic” or “essential”?

The Supreme Court has engaged in the **process of incorporation - process of applying the Federal Bill of Rights to State and Local Government**

### Provisions of the 14th Amendment's Due Process Clause

AMENDMENT	RIGHTS INCORPORATED	RIGHTS NOT INCORPORATED
1st Amendment	Freedoms of speech, press, assembly, petition; Free Exercise Clause; Establishment Clause	
2nd Amendment	Right to bear arms	
3rd Amendment		No quartering of troops
4th Amendment	No unreasonable searches or seizures	
5th Amendment	No self-incrimination; No double jeopardy	Grand jury
6th Amendment	Right to counsel; Right to confront and obtain witnesses; Speedy trial, Trial by jury in criminal cases	
7th Amendment		Trial by jury in civil cases
8th Amendment	No cruel and unusual punishment	

The Supreme Court has 'nationalized' some rights into the 14th Amendment's Due Process Clause. Why do you think only some of the rights have been incorporated?

# 14th Amendment and Federalism

## Study Guide #4

Over the years, the process of incorporation has increased the scope of fundamental rights by extending them to the States.

This has had an impact on federalism, in that the process has broadened federal control in areas traditionally left to the states.

Ex. 1st Amendment - establishment clause - limited prayer in schools

# “Other” Rights of the People

## Amendment 9

guarantees beyond those in the Constitution

example: right of a woman to have an abortion



# Review/Reflection

Review unalienable rights