



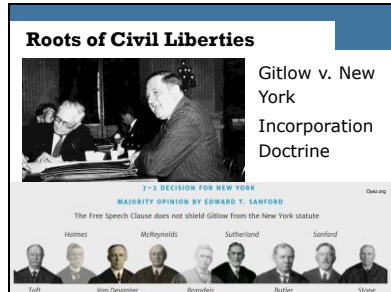
AP[©] U. S. Government & Politics

Slide 1



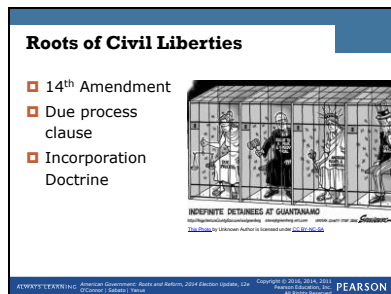
Chapter 4
Civil Liberties: Individual Rights

Slide 2



Until *Gitlow v. New York* (1925), involving Benjamin Gitlow (shown on the right, testifying before Congress), the executive secretary of the Socialist Party, it generally was thought that, despite the Fourteenth Amendment, the limitations of the Bill of Rights did not apply to the states. After *Gitlow*, the Court gradually bound states to most of these provisions through a process known as selective incorporation.

Slide 3



The Bill of Rights protected individuals against actions by the federal government, but not by actions of the state. This changed with the addition of the Fourteenth Amendment. The Fourteenth Amendment requires state and local governments to guarantee that all individuals receive the rights outlined in the Bill of Rights. In 1897, the Supreme Court ruled that states were accountable for substantive due process. States had to prove that state laws were not a misuse of power in regulating the health, welfare, and morals of citizens.

Applying due process to rights listed in the Bill of Rights is called the incorporation doctrine.



AP[®] U. S. Government & Politics

Slide 4

Individual Rights

- Freedom of press
- Freedom of speech
- Freedom of assembly



© Pearson Education, Inc. All rights reserved. This material is intended solely for educational use.

PEARSON


The Court used the doctrine of selective incorporation to determine which rights in the Bill of Rights apply to states under the due process clause of the Fourteenth Amendment.

Fundamental freedoms protected under selective incorporation include the rights defined by the Court as essential to order, liberty and justice. States are bound by these rights and must ensure that individuals have these rights. Fundamental freedoms include freedom of press, freedom of speech, and freedom of assembly.


Slide 5

Individual Rights: Privacy

- Right of women to obtain contraceptives
- *Griswold v. Connecticut* (1965)



7-2 DECISION FOR GRISWOLD
MAJORITY OPINION BY WILLIAM O. DOUGLAS



Black Clark Brennan White
Written Douglas Brennan Stewart Goldberg

Until the 1960s, contraceptives were often restricted in states. In many states they could not be sold to minors, if at all. Connecticut banned the sale of all forms of birth control and prohibited doctors from discussing contraceptives with married women.

Griswold v. Connecticut concerned a Connecticut law prohibiting the use of birth control by married couples. The Court argued that the rights in the Constitution implied a right to privacy that extended to the behavior of married couples in the privacy of their bedroom. The Supreme Court ultimately ruled that the Connecticut state law was unconstitutional and later expanded the right to privacy to include the right of unmarried individuals to have access to contraceptives.

In this photo, Estelle Griswold (left), executive director of the Planned Parenthood League of Connecticut, and Cornelia Jahncke, its president, celebrate the Supreme Court's ruling in *Griswold v. Connecticut* (1965).



AP[©] U. S. Government & Politics

Slide 6



One of the most famous and controversial cases in Supreme Court history concerns the application of the implied right to privacy to the issue of abortion. In 1973, in the case of *Roe v. Wade*, the Court ruled that the right to privacy protects a woman's decision to terminate a pregnancy but that this right is not absolute.

Following the result of *Roe v. Wade* several state legislatures and city councils sought to counteract the Court's decision. They enacted statutes and ordinances to make obtaining abortions more difficult by specifying expensive medical procedures and other matters during the second trimester.

In 1992, in its decision in *Planned Parenthood v. Casey*, the Supreme Court made it easier for states to place restrictions on abortion services by stating that such restrictions could not place an "undue burden" on a woman seeking an abortion in order to pass constitutional muster. What states consider to be an "undue burden" varies widely.



AP[©] U. S. Government & Politics

Slide 7



In a 6-3 opinion delivered by Justice Anthony M. Kennedy, the Court held that the Texas statute making it a crime for two persons of the same sex to engage in certain intimate sexual conduct violates the Due Process Clause. After explaining what it deemed the doubtful and overstated premises of *Bowers*, the Court reasoned that the case turned on whether *Lawrence* and *Garner* were free as adults to engage in the private conduct in the exercise of their liberty under the Due Process Clause. "Their right to liberty under the Due Process Clause gives them the full right to engage in their conduct without intervention of the government," wrote Justice Kennedy. "The Texas statute furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual," continued Justice Kennedy. Accordingly, the Court overruled *Bowers*. Justice Sandra Day O'Connor filed an opinion concurring in the judgment. Justices Clarence Thomas and Antonin Scalia, with whom Chief Justice William H. Rehnquist and Justices Thomas joined, filed dissents.

<https://www.oyez.org/cases/2002/02-102>



AP[©] U. S. Government & Politics

Slide 8



Tyron Garner (left) and John Geddes Lawrence (center), the plaintiffs in *Lawrence v. Texas* (2003), are shown here with their attorney. The ruling in this case proved to be a huge victory for advocates of gay and lesbian rights, as it deemed anti-sodomy laws unconstitutional. Following this decision, states began to debate laws related to marriage and other rights for same-sex couples.

Slide 9

Exit Questions 4

Explain three areas of individual privacy that have been incorporated by the Supreme Court using specific examples.

How do you think these rulings are regarded by liberals and conservatives? Why?

Always Learning, Inc. AP[©] U.S. Government: Practice and Review, 2014 Student Update, 12th Edition. Copyright © 2014, 2014, 2014 Pearson Education, Inc. All Rights Reserved. PEARSON