

LECTURE / DISCUSSION / DEBATE  
CIVIL LIBERTIES AND CIVIL RIGHTS

**Terms and concepts to know:**

Treason / Bills of Attainder	Ex Post Facto / Writ of Habeas Corpus
Bill of Rights	Due Process (14 <sup>th</sup> Amendment)
1 <sup>st</sup> Amendment liberties	The “Establishment” clause
“Clear and present danger” test	“Absolute standard” v. “balancing” test
Prior restraint	Brandenburg doctrine
The “fighting words” doctrine	4 <sup>th</sup> Amendment
Miranda rights and <i>Gideon</i>	8 <sup>th</sup> Amendment
5 <sup>th</sup> / 6 <sup>th</sup> Amendments	<i>Plessy v. Ferguson</i>
<i>Brown v. the Board of Education</i>	Affirmative action and <i>Bakke</i>

**Study and discussion questions:**

1. Discuss some of the difficult and contentious issues surrounding the First Amendment. How do you feel about such things as freedom of speech, expression, religion, and the press? Are they all “absolute” freedoms? What sort of restrictions would you allow in each category?
2. Contending views on affirmative action reflect differing beliefs about the extent to which historical patterns of racism and discrimination have been overcome. To what extent is it legitimate to take past patterns of discrimination into account for such purposes as employment and college admissions?
3. What analogy does Sunstein make between the New Deal’s revolution in economic doctrine and the change he advocates in our interpretations of free expression and the 1<sup>st</sup> Amendment?
4. Sunstein claims that his proposals will further democracy. Critics might argue that he wants to limit liberty in a dangerous way. How would you assess these claims?
5. Relating to the Snyder article, identify the leading arguments against homosexual equality and gay marriage. What are Snyder’s arguments against each of these positions? Do you agree that these antigay perspectives serve to uphold rigid gender roles or “neo-patriarchy”?
6. The film “War on Whistleblowers” focuses on a very important part of the Constitution [freedom of the press] that the producers of the film argue is in grave jeopardy. How would you balance the public’s “right to know” with the government’s need for secrecy?

**Readings:**

Heineman. *American Government*, Chapter 14.  
WEB – Snyder, King, J., Sunstein.

**Video:**

*The Great White Hoax.*