

government laws at problem, levels of scrutiny

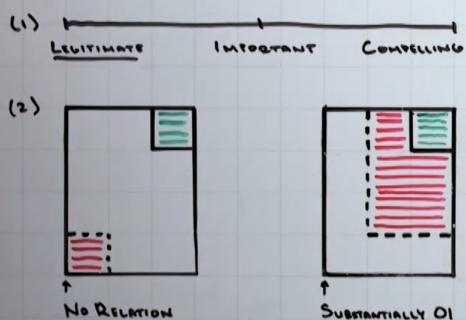
JUDICIAL STANDARDS OF REVIEW APPLIED TO DETERMINE CONSTITUTIONALITY OF LAWS

2 MAJOR CONSIDERATIONS: (1) WHAT IS THE LAW? (2) WHAT OBJECTIVE IS THE GOV. TRYING TO ACHIEVE BY PASSING THE LAW?

RATIONAL BASIS

THE CHALLENGER MUST PROVE THAT THE LAW:

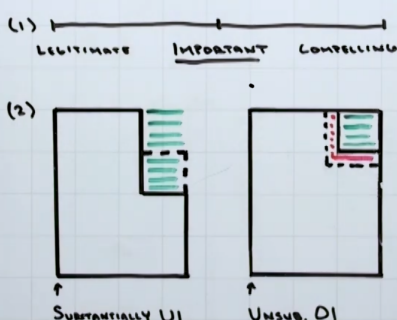
- (1) SERVES NO LEGITIMATE GOV. INTEREST; OR
- (2) IS NOT RATIONALLY RELATED TO ACHIEVING A LEGITIMATE GOV. INTEREST.



INTERMEDIATE SCRUTINY

THE GOV. MUST PROVE THAT THE LAW:

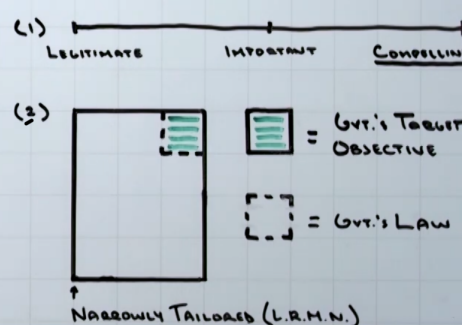
- (1) FURTHERS AN IMPORTANT GOV. INTEREST;
- (2) BY MEANS THAT ARE SUBSTANTIALLY RELATED TO ACHIEVING THAT INTEREST.



STRICT SCRUTINY

THE GOV. MUST PROVE THAT THE LAW:

- (1) FURTHERS A COMPELLING GOV. INTEREST;
- (2) BY THE LEAST RESTRICTIVE MEANS NECESSARY TO ACHIEVING THAT INTEREST.



1st amendment → state action → threshold speech issues
(scope)

gateway issue

4

intermediate scrutiny

2nd amendment

strict scrutiny

content neutral

content based

speech
interference

time,
place
manner

substance

you
can discriminate

Forum Analysis

designate

traditional public forum

content-neutral

limited public forum

free speech is not the same

Non-public forum

viewpoint-neutral

"no political speech"

you can have content based restriction

State actor doctrine

establishment clause

no