Civil Rights and Civil Liberties

Civil Liberties

Key questions:

1. What is the basis for our liberties?
2. What are "property rights"?
3. Do we have a right to "privacy"?

What is the difference?

Civil Liberties:

- Specific protections against government tyranny
    - The bill of rights
- 14th Amendment
    - *Due Process Clause*
    - "No state shall deprive any person of life, liberty or property without due process of law."
    - Forms the basis of all civil liberties court cases

Civil Rights:

- Protections against *discrimination*
- 14th Amendment
    - *Equal Protection Clause*
    - "No state shall deny to any person within its jurisdiction the equal protection of the laws."

Selective Incorporation

- The process by which fundamental civil liberties are extended from federal restrictions to include state restrictions
- *Gitlow v New York(1925)*
    - Supreme court rules that freedom of speech and press apply to states as well
    - Court ruled that it didn't meet "clear and present danger" conditions established in *Schenck v US(1919)*
    - However, BoR application will be decided on a court-by-court basis

Tinker v Demoine

- Kid wore black armband to school to protest Vietnam war
- School punished him
- Supreme court ruled that it was not a "clear and present danger"

The First Amendment

- Protects freedom of speech, press, assembly, religion, and petition

    - SPARP

- Freedom of religion

    - *Free Excercise Clause*

    - [...] or prohibiting the free excorcise thereof.

    - *Establishment Clause*

    - Congress shall make no law respecting an establishment of religion[...]

- Freedom of Expression

    - Rule of Thumb: the Supreme Court does not allow censoring of material prior to its publication
    - Established by Pentagon Papers Case(Nixon told his advisors to take news paper to court for planning to publish on Vietnam War)
    - Defamation
    - **Libel** = written false statements that Defame another person
    - **Slander** = spoken false statement that defame another person
    - Court must decide if test is written with "actual malice" or "reckless disregard for the truth"