

Constitutional Law: Principles and Practice

Constitutional Protections of Civil Rights and Liberties

Chapter 7

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Civil Rights and Liberties: Sources of Protections

- Original constitutional protections
- Protections found in the Bill of Rights
- Protections of the Second Amendment
- Protections found in other amendments

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Original Constitutional Protections

- Petition for writ of habeas corpus
- Bill of attainder
- Ex post facto laws
- Trials for federal crimes should be jury trials in the state where the crime was committed.
- Conviction of treason requires two witnesses or a confession in open court.

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Protections Found in the Bill of Rights

- The first 10 amendments of the Constitution
- Protects individual rights and liberties affecting all aspects of American life
- The Second Amendment protects the right of individuals to bear arms.

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Protections Found in Other Amendments

- The Reconstruction Amendments
 - The Thirteenth, Fourteenth, and Fifteenth Amendments
 - Enacted after the Civil War
 - Provide constitutional protection to freed slaves
- Several amendments protect the right to vote.

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The Bill of Rights and State Government

- The Fourteenth Amendment
 - Federal protection against state deprivation of civil rights
 - Privileges and immunities, due process, equal protection
- The Incorporation Doctrine
 - Extended the Bill of Rights to state action

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Due Process Clauses of the Fifth and Fourteenth Amendments

- Both the Fifth and the Fourteenth Amendments contain Due Process clauses.
- The Court has used these amendments toward procedural and substantive rights.
- Includes: proper notice and right to a fair hearing

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The Equal Protection Clause of the Fourteenth Amendment

- Used by the Supreme Court to invalidate discriminatory state laws
- Originally intended to prevent states from discriminating against African Americans
- Landmark ruling in *Brown v. Board of Education* (1954)

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Privileges and Immunities Clause of the Fourteenth Amendment

- Considered in evaluating violations of civil rights by states
- *Saenz v. Roe*

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Congress and Civil Rights Legislations

- **State Action Doctrine**
 - Questioned constitutionality of Civil Rights Act because it outlawed private conduct
- **Interstate Commerce Clause**
 - Laws that prohibited discrimination by businesses involved in interstate commerce