

CONSTITUTIONAL LAW: PRINCIPLES AND CASES

CASE	RULE OF LAW
<p>Section 2 Protection of Personal Liberties under the Due Process Clause</p> <p>The Ct determines that there is substantive due process protection for FUNDAMENTAL RIGHTS. The word "liberty" in the due process clause of both the 5th and the 14th Amendments offers special constitutional protection for privacy, personal autonomy, and some family relationships. S Ct applies the Constitution to protect these rights against the power of national and state legislatures</p> <p>SUBSTANTIVE DUE PROCESS PROTECTION FOR FUNDAMENTAL RIGHTS</p> <ol style="list-style-type: none"> 1. Fundamental rights: will get strict scrutiny 2. Non-fundamental rights: will continue to get rational basis scrutiny <p><u>Test for Rational Basis Scrutiny</u></p> <ul style="list-style-type: none"> · Must be a rational relation between a legitimate state objective and the challenged regulation (P has burden of proof) · Applies to non-fundamental rights - Ct generally defers to the legislative judgment <p><u>Test for Strict Scrutiny</u></p> <ul style="list-style-type: none"> · There must be a compelling state interest, accomplished through narrowly tailored means. Means-end fit must be very close so that the means are "necessary" to achieve the end. Only if the govt entity imposing the restriction can show that the limitation is both necessary and narrowly tailored to serve a compelling govt interest will it be found constitutional · Applies to fundamental rights - few statutes meet test of showing compelling interest that can't be achieved in a less burdensome way <p><u>Types of Rights:</u></p> <p>Due process right (substantive/procedural) - issue deals with an individual being denied a liberty</p> <p>Equal protection right - issue deals with similarly situated persons not being treated similarly; a regulation separates into classes (gender, racial, etc).</p> <p style="padding-left: 40px;">Determine what classification to determine what type of scrutiny is required.</p> <p style="padding-left: 80px;">Is it fundamental?</p> <p style="padding-left: 80px;">Is it general?</p>	
<p>Meyer v. Nebraska (1923)</p> <p>Right of parents to make choices for the education of their children.</p>	<p>S Ct struck down a state law which prohibited the teaching of foreign languages to children during the first 8 yrs of school. Ct held that "liberty" as used in the 14th Amend included many rights, not just the freedom from bodily restraint. This included the right of the individual to contract, to acquire useful knowledge and to enjoy those privileges essential to the pursuit of happiness. Also includes the right of parents to make choices for the education of their children.</p>
<p>Pierce v. Society of Sisters (1925)</p> <p>Right of parents to educate their children where they want.</p>	<p>S Ct struck down a state statute requiring children to attend public schools, thus preventing them from attending private and parochial ones. Court held that parents have the liberty to direct the upbringing and education of children under their control.</p>
<p>Skinner v. Oklahoma (1942)</p> <p>Right to procreate.</p>	<p>S Ct invalidated an OK statute which provided for involuntary sterilization of persons convicted three times of felonies showing moral turpitude but which did not apply to white collar crimes such as embezzlement. Ct held that marriage and procreation are fundamental rights.</p>
<p>Griswold v. Connecticut (1965)</p> <p>Questions concerning reproductive issues in a marital relationship are a matter of privacy bet married couples. This is the first case dealing with and creating a fundamental right of privacy.</p>	<p>Connecticut law forbade the use of contraceptives, making it a criminal offense. S Ct found that there are specific guarantees in the Bill of Rights (corresponding with several amendments) which have penumbras (shadows, emanations*) that help give those guarantees life and substance. Hence, various amendments in the Bill of Rights create zones of privacy. The right of married persons to use contraceptives falls within these penumbras.</p> <p>*Ct claimed that the 1st Amend, by its protection of the freedoms of speech and the press, has emanations which create a penumbra - it is this penumbra which</p>

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<p>Bill of Rights provides certain guaranteed rights. Penumbra theory is that stemming from the B of R there are other rights. A right emanating from a right which already exists.</p>	<p>protects the freedom of association, a freedom not explicitly mentioned in the Constitution. The 4th Amend's ban on unreasonable searches has a penumbra which protects privacy interests as do the 3rd, 5th, and 9th Amend. Together, these Amends establish a zone in which privacy is protected from govt intrusion. This privacy right is inherent in the marital relationship; thus the fundamental right to marital privacy is created.</p>
<p>Family and Marital Relationships</p>	
<p>Moore v. City of East Cleveland</p> <p>Right of a family to live together; Powell relied on nations's history and tradition in finding support for the extended family to receive protection.</p> <p>Ct found a fundamental right of privacy in family living arrangements.</p>	<p>Ct struck down a zoning ordinance which allowed only members of a single family to live together. The ordinance's definition of a family was a restrictive one which prevented P from living with her 2 grandsons who, having different parents, were first cousins to each other.</p> <p>A 4-Justice plurality opinion found that the right of members of a family, even a non-nuclear one, to live together was a liberty interest, and that state impairment of that interest must be examined carefully. Although the state claimed its interest was in preventing overcrowding, traffic congestion, and burdens on schools, these interests were only marginally advanced by the ordinance. Using a heightened level of scrutiny, the Ct held that such interests did not warrant the intrusion upon a family's privacy.</p>
<p>Loving v. Virginia (1963)</p> <p>S Ct first recognizes right to marry as a fundamental right, protected under the liberty interest in the due process clause of the 14th amendment</p>	<p>Court struck Virginia's anti-miscegenation statute which prohibited a white person from marrying anyone other than another white person. In terms of the fundamental right to marry, the Court said: "The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men." The Court stated that marriage is one of the "basic civil rights of man, fundamental to our very existence and survival." Thus, a state determining who a person can/cannot marry deprives that person of liberty without due process of law.</p>
<p>Zablocki v. Redhail (1978)</p> <p>Right to marry is fundamental; substantial interferences with that right will not be sustained merely because the state has a legitimate interest and the means used are rationally related to that interest.</p>	<p>P attacked a Wisconsin statute requiring any parent under a court order to support a minor child not in his custody meet 2 requirements before being permitted to marry: 1. Payment of all court ordered support and 2. Show that the child was not and would not become a public charge. Ct struck down the statute in that the right to marry was a fundamental one and that a direct and substantial interference with it should be subjected to a strict level of scrutiny. The state interest was not compelling and could be met with less restrictive devices. Ct noted that where a regulation had some effect upon the ability to marry but did not significantly interfere with that ability, only a mere rationality test would be used.</p>
<p>Michael H. V. Gerald D. (1989)</p> <p>No fundamental right for a child to maintain a relationship with a biological parent. This interfered with the more fundamental right of the family.</p>	<p>Ct would not let illegitimate father bring action to seek rights of paternity although they did not preclude such a possibility if the biological relationship were combined with ongoing parent-child contact. Issue was whether the state awards substantive parental rights to the natural father of a child who was conceived outside but born into a marriage where there is a legal father, when that natural father wishes to raise the child. Ct found that biology alone did not confer a fundamental right. However, five justices seemed to agree with the proposition that "although an unwed father's biological link to his child does not, in and of itself, guarantee him a constitutional stake in his relationship with that child, such a link combined with a substantial parent-child relationship will do so."</p>
<p>Part 2: Personal Autonomy</p>	