

## **CHAPTER 5: CIVIL LIBERTIES**

### **2. Civil Liberties: Foundational Concepts**

- **Be sure to know and understand the definition of civil liberties. (002)**
  - Can be defined as freedoms that are guaranteed by the constitution, legislation, or judicial interpretation, and that protect individuals from interference by the government or others in their pursuits, such as speech, religion, assembly, or property.
  - The Civil Liberties in the Georgia Constitution Have Always Only Applied to Georgia State and Local Governments
  - The Civil Liberties in the U.S. Constitution Have Always Applied to the Federal Government.
  - Most of the Civil Liberties in the U.S. Constitution are Now Binding On State and Local Governments (as Well as the Federal Government)

### **The Nature and Constitutional Sources of Civil Liberties**

- **Do constitutions protect civil liberties against infringement by private individuals (or businesses) or do constitutions only protect against infringement by government?**
  - Civil Liberties Only Apply to Government (and Not to Private Entities). So infringement done by the government only can be protected.
- **Did civil liberties listed in the Bill of Rights of the U.S. Constitution apply to actions taken by *state* governments prior to the Civil War? Did they apply to actions taken by the *federal* government prior to the Civil War?**
  - Before the Civil War, it was understood that the U.S. Constitution only protected civil liberties from interference by the U.S. federal government.

### **Judicial Enforcement and Interpretation of Civil Liberties**

- **What is "incorporation"? What does it have to do with the Due Process Clause of the 14<sup>th</sup> Amendment?**
  - Incorporation means that the Court declares a civil liberty from the Bill of Rights to be protected against state government abuse through the Due Process Clause of the 14th Amendment.
  - The Due Process Clause is a clause of the 14<sup>th</sup> Amendment that says "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" and "no State shall "deprive any person of life, liberty, or property, without due process of law."
  - Incorporation uses this Due Process Clause to protect citizens from infringement done by the state.
- **What's the difference between "selective incorporation" and "total incorporation"? Which approach has the U.S. Supreme Court used? (001)**
  - Selective incorporation is the gradual process of incorporating the civil liberties from the Bill of Rights -- one case and one liberty at a time

# Civil Liberties Study Guide Answers

**Jianjun Gao**



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