



## PRINCIPLE OF AMERICAN DEMOCRACY

### Vocabulary Set 8

#### The Constitution and Democracy

Name:

Section:

### First Amendment Rights

**Bad tendency test** - Interpretation of the First Amendment that would permit legislatures to forbid speech encouraging people to engage in illegal action.

**Bill of attainder** – Legislative act inflicting punishment, including deprivation of property, without a trial, on named individuals or members of a specific group.

**Civil disobedience** – Deliberate refusal to obey law or comply with orders of public officials as a means of expressing opposition.

**Clear and present danger test** – Interpretation of the First Amendment that holds that the government cannot interfere with speech unless the speech presents a clear and present danger that it will lead to evil or illegal acts.

**Commercial speech** – Advertisements and commercials for products and services; they receive less First Amendment protection, primarily to discourage false and misleading ads.

**Due process clause** – Clause in the Fifth Amendment limiting the power of the national government; similar clause in the Fourteenth Amendment prohibiting state governments from depriving any person of life, liberty, or property without due process of law.

**Establishment clause** – Clause in the First Amendment that states that Congress shall make no law respecting an establishment of religion. The Supreme Court has interpreted this to forbid governmental support to any or all religions.

**Ex post facto law** – Retroactive criminal law that works to the disadvantage of a person.

**Fighting words** – Words that by their very nature inflict injury on those to whom they are addressed or incite them to acts of violence.

**Free exercise clause** – Clause in the First Amendment that states that Congress shall make no law prohibiting the free exercise of religion.

**Libel** – Written defamation of another person. For public officials and public figures, the constitutional tests designed to restrict libel actions are especially rigid.

**Nonprotected speech** – Libel, obscenity, fighting words, and commercial speech, which are not entitled to constitutional protection in all circumstances.

**Obscenity** – Quality or state of a work that taken as a whole appeals to a prurient interest in sex by depicting sexual conduct in a patently offensive way and that lacks serious literary, artistic, political, or scientific value.

**Preferred position doctrine** – Interpretation of the First Amendment that holds that freedom of expression is so essential to democracy that governments should not punish persons for what they say, only for what they do.

**Prior restraint** – Censorship imposed before a speech is made or a newspaper is published; usually presumed to be unconstitutional.

**Sedition** - Attempting to overthrow the government by force or use violence to interrupt its activities.

**Selective incorporation** – The process by which provisions of the bill of rights are brought within the scope of the Fourteenth Amendment and so applied to state and local governments.

**Vouchers** – Money government provides to parents to pay their children's tuition in a public or private school of their choice.

**Writ of habeas corpus** – A court order requiring explanation to a judge why a prisoner is being held in custody.

Aboukhadijeh, Feross. "Chapter 15: First Amendment Freedoms" StudyNotes.org. Study Notes, LLC., 17 Nov. 2012. Web. 27 Mar. 2018. <<https://www.apstudynotes.org/us-government/vocabulary/chapter-15-first-amendment-freedoms/>>.

## Basic Human Rights

**Community policing** – Assigning police to neighborhoods where they walk the beat and work with churches and other community groups to reduce crime and improve relations with minorities.

**Contract clause** – Clause of the Constitution (Article I, Section 10) originally intended to prohibit state governments from modifying contracts made between individuals; for a while interpreted as prohibiting state governments from taking actions that adversely affect property rights; no longer interpreted so broadly and no longer constrains state governments from exercising their police powers.

**Double jeopardy** – Trial or punishment for the same crime by the same government; forbidden by the Constitution.

**Dual citizenship** – Citizenship in more than one nation.

**Due process** – Established rules and regulations that restrain government officials.

**Eminent domain** – Power of a government to take private property for public use; the U.S. Constitution gives national and state governments this power and requires them to provide just compensation for property so taken.

**Exclusionary rule** – Requirement that evidence unconstitutionally or illegally obtained be excluded from a criminal trial.

**Grand jury** – A jury of 12 to 23 persons who, in private, hear evidence presented by the government to determine whether persons shall be required to stand trial. If the jury believes there is sufficient evidence that a crime was committed, it issues an indictment.

**Immunity** – Exemption from prosecution for a particular crime in return for testimony pertaining to the case.

**Indictment** – A formal written statement from a grand jury charging an individual with an offense; also called a *true bill*.

**Naturalization** – A legal action conferring citizenship on an alien.

**Petit jury** – A jury of 6 to 12 persons that determines guilt or innocence in a civil or criminal action.

**Plea bargain** – Agreement between a prosecutor and a defendant that the defendant will plead guilty to a lesser offense to avoid having to stand trial for more serious offense.

**Police powers** – Inherent powers of state governments to pass laws to protect the public health, safety, and welfare; the national government has no directly granted police powers but accomplishes the same goals through other delegated powers.

**Procedural due process** – Constitutional requirement that governments proceed by proper methods; limits how government may exercise power.

**Racial profiling** – Police targeting of racial minorities as potential suspects of criminal activities.

**Regulatory taking** – Government regulation of property so extensive that government is deemed to have taken the property by the power of eminent domain, for which it must compensate the property owners.

**Right of expatriation** – The right to renounce one's citizenship.

**Search warrant** – A writ issued by a magistrate that authorizes the police to search a particular place or person, specifying the place to be searched and the objects to be seized.

**Substantive due process** - Constitutional requirement that governments act reasonably and that the substance of the laws themselves be fair and reasonable; limits what the government may do.

Aboukhadijeh, Feross. "Chapter 16: Rights to Life, Liberty, and Property" StudyNotes.org. Study Notes, LLC., 17 Nov. 2012. Web. 27 Mar. 2018. <<https://www.apstudynotes.org/us-government/vocabulary/chapter-16-rights-to-life-liberty-and-property/>>.