

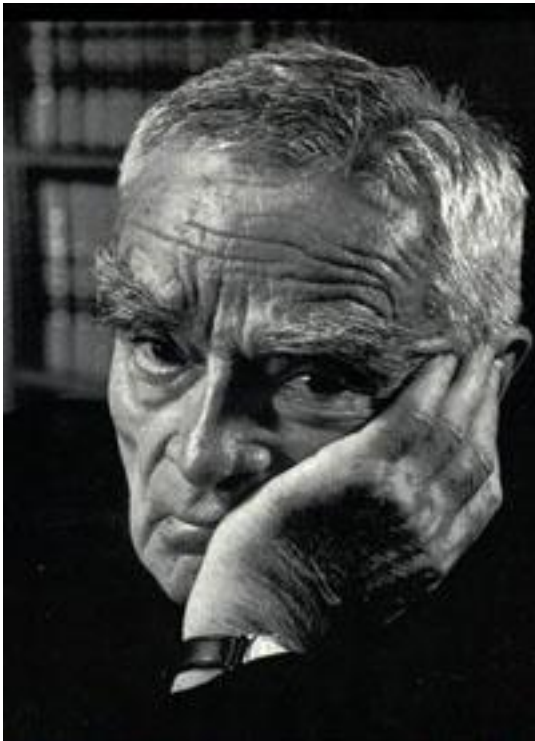


We the People. . . The Citizen and the Constitution

Frontiers International Workshop
December 14, 2010

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Citizenship and the Constitution



I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it. While it lies there it needs no constitution, no law, no court to save it.

--Learned Hand, *The Spirit of Liberty* (speech) New York, 21 May 1944, reprinted in *The Oxford Dictionary of American Legal Quotations* (New York: Oxford University Press, 1993), p. 301.



Teaching about the Constitution

- Powerful Instruction about the Constitution Utilizes. . .
 - **Concepts & Content from Multiple Disciplines (e.g., philosophy, history, political science, and law)**
 - **Comparisons (e.g., across time and between ideas and countries)**
 - **Issues (contemporary and historical)**
 - **Narratives/Stories (ideas matter in the lives of real people)**
- We the People enables teachers and students to use all of these ideas.



Unit Six: Citizenship & the Constitution

- What do you think are the greatest challenges of American citizenship today?
 - Why and how does constitutional democracy in the United States depend on the active participation of its citizens?
 - What are the advantages and disadvantages, if any, of being a citizen of both the United States and the state in which you reside?



Core Concepts of Citizenship and Democracy

- Constitutionalism**
- Human Rights**
- Representative Democracy**
- Citizenship**
- Civil Society**



WHAT IS CONSTITUTIONALISM?

- A. **Rule of Law** (Due process; Equitable enforcement; Equal protection of the law; Equal justice under the law)
- B. **Limited Government** (Powers are enumerated; Powers are separated and distributed among different departments or branches; Checks and balances system among the departments or branches; Decentralization of power throughout the state; Accountability to the people through a democratic electoral process)
- C. **Constitutional Government** (Constitution, framework for government, usually a written document; Government functions within the framework; Government both empowered and limited to achieve ordered liberty; Separation of powers with checks and balances to both empower and limit government; Independent judiciary with power of judicial review to maintain limited government)
- D. **Forms of Constitutional Government** (Federal System (Federalism); Confederal System (Confederalism); Unitary System)

The background of the slide is a blue-toned image. It features a globe on the right side, showing the Americas. A network of white lines, resembling a globe's latitude and longitude or a digital network, is overlaid on the background. The overall aesthetic is clean and professional, with a focus on global or digital themes.

What are Human Rights?

- A. **Political and Public Rights** (Voting; Political participation beyond voting; Civil liberties necessary to free political participation)
- B. **Personal and Private Rights** (Freedom of conscience; Right to be left alone (privacy); Personal pursuit of happiness; Private property rights)
- C. **Economic and Social Rights** (Social security and welfare entitlements; Right to an education; Right to minimum income; Right to safe working conditions)
- D. **Rights of Accused Person**



What is Representative Democracy?

- A. **Popular Sovereignty** (People as source of authority for government; Government by consent of the governed, the people)

- B. **Electoral Democracy** (Free, fair, competitive, regularly scheduled elections; Inclusive eligibility to vote for representatives in government; Indirect majority rule by the people through their elected representatives; Inclusive participation by the people to influence representatives in government; Two or more political parties; Accountability of representatives to the people; Public Policy)



What is Citizenship?

- A. Pathways to Citizenship** (Natural citizen; Naturalized citizen)
- B. Civic Identity** (Common attribute of citizens; Common bond of a civic community; Commitment to common civic culture)
- C. Civic Dispositions** (Characteristics of the good citizen; Civic virtue; Civic morality)
- D. Civic Duties and Responsibilities** (Civic and political engagement; Loyalty to the state and government; Commitment to the common good)
- E. Rights of Citizenship** (Voting for Representatives in Government; Qualification to hold certain high government offices)



What is Civil Society?

- A. Pluralism and diversity in the society** (Free expression and exercise of various individual and group interests; Freedom of association; Multiplicity of social and cultural and political identities; Voluntary civil associations or non-governmental organizations; Regulation of society by government to prevent either anarchy or tyranny)

- B. Private Sources of Social-Political Power and Resources**
(Nongovernmental organizations and institutions as private sources of support for the common good; Nongovernmental organizations and institutions as countervailing forces against despotic tendencies in government)

- C. Open and Free Social Order** (Flexible social class structure; Equality of social opportunity; Upward mobility based on merit; Freedom within a context of regulation by government in a representative democracy)

Problems of Citizenship and Democracy in U.S.

- **Constitutionalism**
 - The problem of **power**
 - How do we give government enough power to do its job but control sufficiently so that not does not abuse its power?
- **Human Rights**
 - The problem of **defining rights**
 - What rights deserve constitutional protection?
- **Representative Democracy**
 - The problem of the **role and scope of government**
 - What are the proper roles of government in the economic, social, and civic life of the nation?
- **Citizenship**
 - The problem of **identity**
 - Who are citizens and what makes them good?
- **Civil Society**
 - The problem of **participation**
 - How do we get citizens of a large, diverse democracy to participate to a level that enables successful governance?



Problems of Power (Constitutionalism)



- Ambach v. Norwick, 1979
NY TEACHERS MUST APPLY FOR CITIZENSHIP?
- Wygant v. Jackson Board of Education, 1985
– RACE-BASED LAYOFFS?



- Arizona Immigration Law
– RESIDENT ALIENS MUST CARRY PAPERS
– COPS CAN ASK FOR PAPERS WITH REASONABLE SUSPICIAN
– ILLEGAL FOR



Problems of Rights (Natural Rights)

McDonald v. Chicago, 2010

- Issues: **SECOND AMENDMENT**
- Question: Does it apply to states?
- Holding: Yes.

- Lawrence v. Texas, 2001

- Issues: **PRIVACY**
- Question: Does Texas sodomy law violate due process?
- Holding: Yes.

- Roper v. Simmons, 2005

- Issues: **EIGHT AMENDMENT**
- Question: Does the execution of a juvenile violate the Eighth Amendment?
- Holding: Yes.



Problems of the Role and Scope of Government (Representative Democracy)

- DeShaney v. Winnebago, 1989
 - **Issues: POSITIVE RIGHTS**
 - **Question: Does a state's failure to protect a child from private violence violate the 14th Amendment's Due Process Clause?**
 - **Holding: No. 14th limits state power; doesn't require them to act**
- Citizens United v. FEC, 2010
 - **Issues: CAMPAIGN FINANCE**
 - **Question: Can campaign contributions by for profit corporations be limited?**
 - **Holding: NO**

Problems of Identity (Citizenship)

- What is an American?
- What is a citizen?
- What are the rights and responsibilities of citizens and non-citizens? How should we restrict immigration?
- What are the advantages and disadvantages of tribal, state, and national citizenship?



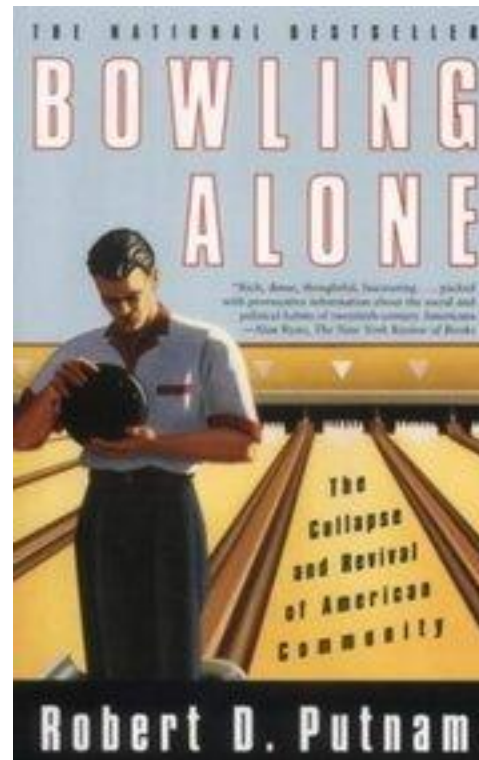
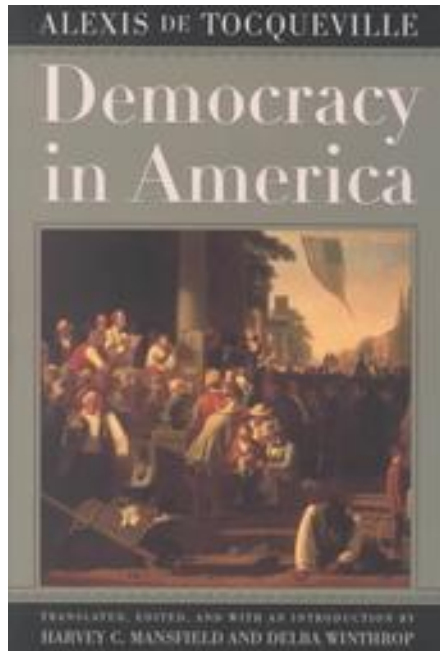
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Problems of Identity (Citizenship)

- **Constitution and Citizenship**
 - **Representatives (7 years)**
 - **Senators (9 years)**
 - **President (“natural born”)**
 - **Congress (“uniform rule of naturalization”)**
 - **14th Amendment**

Problems of Participation

- Civil Society, Social Capital, and Participation





Problems of Governance

- How should citizens balance important ideas in resolving public issues?
 - A. Liberty and Order
 - B. Freedom and Equality
 - C. Majority Rule and Minority Rights
 - D. Positive and Negative Rights
 - E. Unity and Diversity
 - F. Privacy and Security

Citizenship: A Question Balance

TWELVE TABLES OF CIVISM FOR THE MODERN AMERICAN REPUBLIC*

(with apologies to the "Laws of the Twelve Tables" of the Early Roman Republic and to Aristotle's paradigm of the Later Greek Republics)

UNUM The Obligations of Citizenship		PLURIBUS The Rights of Citizenship	
Corrupted Forms of Unum	True Forms of Unum	True Forms of Pluribus	Corrupted Forms of Pluribus
"Law and order"	Justice	Freedom	Anarchy
Enforced sameness; conformity	Equality	Diversity	"Unstable pluralism"
Authoritarianism; totalitarianism	Authority	Privacy	Privatism; privatization
"Majoritarianism"	Participation	Due Process	"Soft on criminals"
"Beguiling half-truth; plausible falsehood"	Truth	Property	"Property rights superior to human rights"
Chauvinism; xenophobia	Patriotism	Human Rights	"Cultural Imperialism"
	↘	↙	
Democratic Civism			

*Adapted from the "Decalogue of Democratic Civic Values" in R. Freeman Butts, *The Revival of Civic Learning* (Bloomington, Indiana: Phi Delta Kappa Educational Foundation, 1980), p 128.



Suggested Websites

- The Center for Information and Research on Civic Learning and Engagement
 - <http://www.civicyouth.org/>
- The Saguaro Seminar: Civic Engagement in America
 - <http://www.ksg.harvard.edu/saguaro/>
- The Center for Communication and Civic Engagement
 - <http://depts.washington.edu/ccce/Home.htm>
- Freedom House
 - <http://www.freedomhouse.org/>
- Center for Democracy and Citizenship
 - http://www.civicyouth.org/research/areas/higher_ed_outside3
- National Alliance for Civic Education
 - <http://www.cived.net/>



Suggested Reading

- Schechter, Stephen L. and Thomas S. Vontz, *Exploring Political Ideas: Concepts that Shape our World*. Washington, DC: CQ Press, 2010.
- Dalton, Russell J. *The Good Citizen: How a Younger Generation is Reshaping American Politics*. Washington, DC: Congressional Quarterly, 2007.
- Zukin, Cliff. Scott Keeter, Molly Andolina, Krista Jenkins, and Michael X. Delli Carpini. *A New Engagement? Political Participation, Civic Life, and the Changing American Citizen*. New York: Oxford University Press, 2006.
- Campbell, David E. *Why We Vote? How Schools and Communities Shape Our Civic Life*. Princeton, NJ: Princeton University Press, 2006.
- Dalton, Russell J. *Democratic Challenges, Democratic Choices: The Erosion of Political Support in Advanced Industrial Democracies*. New York: Oxford University Press, 2006.
- Putnam, Robert D. *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon & Schuster, 2000.
- Schudson, Michael. *The Good Citizen: A History of American Civic Life*. New York: Martin Kessler Books, 1998