DOWNLOAD PDF THE EXPANSION OF INDIVIDUAL RIGHTS

Chapter 1 : Warren Court - Wikipedia

Expanding Civil Rights by Jeffrey Rosen From the Civil War until the New Deal era, the Court was more concerned with economic rights than with civil rights and civil liberties, largely because of.

History of Intellectual Property One of the first known references to intellectual property protection dates from B. In the first case, Vitruvius â€" B. While serving as judge in the contest, Vitruvius exposed the false poets who were then tried, convicted, and disgraced for stealing the words and phrases of others. The second and third cases also come from Roman times first century C. Although there is no known Roman law protecting intellectual property, Roman jurists did discuss the different ownership interests associated with an intellectual work and how the work was codifiedâ€"e. There is also reference to literary piracy by the Roman epigrammatist Martial. In this case, Fidentinus is caught reciting the works of Martial without citing the source. These examples are generally thought to be atypical; as far as we know, there were no institutions or conventions of intellectual property protection in Ancient Greece or Rome. From Roman times to the birth of the Florentine Republic, however, there were many franchises, privileges, and royal favors granted surrounding the rights to intellectual works. Bugbee distinguishes between franchises or royal favors and systems of intellectual property in the following way: An inventor, on the other hand, deprives the public of nothing that existed prior to the act of invention Bugbee This statute not only recognized the rights of authors and inventors to the products of their intellectual efforts; it built in an incentive mechanism that became a prominent feature of Anglo-American intellectual property protection. For several reasons, including Guild influence, the Florentine patent statute of issued only the single patent to Brunelleschi. The basis of the first lasting patent institution of intellectual property protection is found in a statute of the Venetian Republic. American institutions of intellectual property protection are based on the English system that began with the Statute of Monopolies and the Statute of Anne Even then there were few true copyrights grantedâ€"most were grants, privileges, and monopolies. The Statute of Anne is considered by scholars to be the first statute of modern copyright. In the landmark English case Miller v. Taylor , the inherent rights of authors to control what they produce, independent of statute or law, was affirmed. While this case was later overruled in Donaldson v. Becket , the practice of recognizing the rights of authors had begun. Various international treaties like the Berne Convention treaty and the Trade-Related Aspects of Intellectual Property TRIPS agreement have expanded the geographic scope of intellectual property protection to include most of the globe. The Domain of Intellectual Property At the most practical level, the subject matter of intellectual property is largely codified in Anglo-American copyright, patent, and trade secret law, as well as in the moral rights granted to authors and inventors within the continental European doctrine. Although these systems of property encompass much of what is thought to count as intellectual property, they do not map out the entire landscape. Even so, Anglo-American systems of copyright, patent, trade secret, and trademark, along with certain continental doctrines, provide a rich starting point for understanding intellectual property Moore a. We will take them up in turn. Works that may be copyrighted include literary, musical, artistic, photographic, architectural, and cinematographic works; maps; and computer software. Utilitarian products, or products that are useful for work, fall, if they fall anywhere, within the domain of patents. Someone else may read these publications and express the theory in her own words and even receive a copyright for her particular expression. Some may find this troubling, but such rights are outside the domain of copyright law. The individual who copies abstract theories or ideas and expresses them in her own words may be guilty of plagiarism, but she cannot be held liable for copyright infringement. There are five exclusive rights that copyright owners enjoy, and three major restrictions on the bundle. The five rights are: All five rights lapse after the lifetime of the author plus 70 yearsâ€"or in the case of works for hire, the term is set at 95 years from publication or years from creation, whichever comes first. Aside from limited duration 17 U. In short, the owners of copies can do what they like with their property, short of violating the copyrights mentioned above. These approaches to protecting intellectual works are relatively new and seemingly build upon the copyright systems already in place. For example, by using licensing agreements to guarantee different levels of

downstream access, the Creative Commons and Copyleft models seek to expand the commons of thought and expression Stallman ; Lessig Thus, Creative Commons and Copyleft models are actually built upon ownership or entitlement claims to intellectual works. There are three types of patents recognized by patent law: Utility patents protect any new, useful, and nonobvious process, machine, article of manufacture, or composition of matter, as well as any new and useful improvement thereof. Design patents protect any new, original, and ornamental design for an article of manufacture. Finally, the subject matter of a plant patent is any new variety of plant that is asexually propagated e. Patent protection is the strongest form of intellectual property protection, in that a twenty-year exclusive monopoly is granted to the owner over any expression or implementation of the protected work 35 U. As with copyright, there are restrictions on the domain of patent protection. Patent Act requires usefulness, novelty, and non-obviousness of the subject matter. The usefulness requirement is typically deemed satisfied if the invention can accomplish at least one of its intended purposes. Needless to say, given the expense of obtaining a patent, most machines, articles of manufacture, and processes are useful in this minimal sense. A more robust requirement on the subject matter of a patent is that the invention defined in the claim for patent protection must be new or novel. There are several categories or events, all defined by statute, that can anticipate and invalidate a claim of a patent 35 U. In general, the novelty requirement invalidates patent claims if the invention was publicly known before the patent applicant invented it. In addition to utility and novelty, the third restriction on patentability is non-obviousness. United States patent law requires that the invention not be obvious to one ordinarily skilled in the relevant art at the time the invention was made. In return for public disclosure and the ensuing dissemination of information, the patent holder is granted the right to make, use, sell, and authorize others to sell the patented item 35 U. The bundle of rights conferred by a patent excludes others from making, using, or selling the invention regardless of independent creation. Like copyright, patent rights lapse after a given period of timeâ€”20 years for utility and plant patents, 14 for design patents. But unlike copyright protection, during their period of applicability these rights preclude others who independently invent the same process or machine from being able to patent or market their invention. The secret may be a formula for a chemical compound; a process of manufacturing, treating, or preserving materials; a pattern for a machine or other device; or a list of customers. The two major restrictions on the domain of trade secrets are the requirements of secrecy and competitive advantage. An intellectual work is not a secret if it is generally known within the industry, published in trade journals, reference books, etc. Although trade secret rights have no built-in expiration, they are extremely limited in one important respect. Owners of trade secrets have exclusive rights to make use of the secret only as long as the secret is maintained. If the secret is made public by the owner, then trade secret protection lapses and anyone can make use of it. Within the secrecy requirement, owners of trade secrets enjoy management rights and are protected from misappropriation. This latter protection is probably the most important right granted, given the proliferation of industrial espionage and employee theft of intellectual works. If a trade secret is misappropriated and made public, courts may impose injunctive relief and damages. For example, if someone misappropriates a trade secret and publishes it on a website, courts may require deletion and payment of fines. A trademark is any word, name, symbol, or device, or any combination thereof, adopted by a manufacturer or merchant to identify her goods and distinguish them from goods produced by others 15 U. A major restriction on what can count as a trademark is whether or not the symbol is used in everyday language. In this respect, owners of trademarks do not want their symbols to become too widely used because once this occurs, the trademark lapses. Ownership of a trademark confers upon the property holder the right to use a particular mark or symbol and the right to exclude others from using the same or similar mark or symbol. The duration of these rights is limited only in cases where the mark or symbol ceases to represent a company or interest, or becomes entrenched as part of the common language or culture. A highly publicized case in this area is Buchwald v. Paramount Pictures 13 U. Buchwald did not fix his idea, for example by writing it down, and thus copyright infringement did not apply. After several years of false starts and negotiations Paramount notified Buchwald that the movie based on his idea was not going to be produced. Shortly after this notification, Coming to America was released and credit was given to Eddie Murphy. Even though the movie supposedly lost money, Buchwald sued and received compensation. The law of ideas is typically applied in

cases where individuals produce ideas and submit them to corporations expecting to be compensated. In certain cases, when these ideas are used by the corporation or anyone without authorization, compensation may be required. Before concluding that an author has property rights to her idea s , courts require the idea s to be novel or original Murray v. National Broadcasting, U. F2d Second Cir. Compensation is offered only in cases of misappropriation Sellers v. Justifications and Critiques Arguments for intellectual property rights have generally taken one of three forms Hughes ; Moore Personality theorists maintain that intellectual property is an extension of individual personality. Utilitarians ground intellectual property rights in social progress and incentives to innovate. Lockeans argue that rights are justified in relation to labor and merit. To this we add a recent fourth strand of justification Moore forthcoming. On grounds of prudence and self-interest, we each have reason to adopt and promote institutions that protect intellectual works. While each of these strands of justification has its weaknesses, there are also strengths unique to each. We are self-owners in this sense. Control over physical and intellectual objects is essential for self-actualizationâ€”by expanding our selves outward beyond our own minds and mixing these selves with tangible and intangible items, we both define ourselves and obtain control over our goals and projects. For Hegel, the external actualization of the human will requires property Hegel Property rights are important in two ways according to this view. First, by controlling and manipulating objects, both tangible and intangible, our will takes form in the world and we obtain a measure of freedom. Individuals may use their physical and intellectual property rights, for example, to shield their private lives from public scrutiny and to facilitate life-long project pursuit. Second, in some cases our personality becomes fused with an objectâ€”thus moral claims to control feelings, character traits, and experiences may be expanded to intangible works Humboldt ; Kohler First, it is not clear that we own our feelings, character traits, and experiences.

Chapter 2 : The Warren Court and Individual Rights

Which Constitutional amendment provides for the expansion of individual rights found in the Bill of Rights? A. 14th amendment B. 15th amendment.

Rescission by Oregon did not occur until later. These rescissions caused significant controversy. However, ratification by other states continued during the course of the debate: Seward certified that if withdrawals of ratification by New Jersey and Ohio were ineffective, then the amendment had become part of the Constitution on July 9, , with ratification by South Carolina. The inclusion of Alabama and Georgia has called that conclusion into question. While there have been Supreme Court cases dealing with ratification issues, this particular question has never been adjudicated. The Fourteenth Amendment was subsequently ratified: Citizenship and civil rights The two pages of the Fourteenth Amendment in the National Archives Background Section 1 of the amendment formally defines United States citizenship and also protects various civil rights from being abridged or denied by any state or state actor. Abridgment or denial of those civil rights by private persons is not addressed by this amendment; the Supreme Court held in the Civil Rights Cases [30] that the amendment was limited to "state action" and, therefore, did not authorize the Congress to outlaw racial discrimination by private individuals or organizations though Congress can sometimes reach such discrimination via other parts of the Constitution. Supreme Court Justice Joseph P. Bradley commented in the Civil Rights Cases that "individual invasion of individual rights is not the subject-matter of the [Fourteenth] Amendment. It has a deeper and broader scope. It nullifies and makes void all state legislation, and state action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws. Senator from Michigan Jacob M. There are varying interpretations of the original intent of Congress and of the ratifying states, based on statements made during the congressional debate over the amendment, as well as the customs and understandings prevalent at that time. Many things claimed as uniquely Americanâ€”a devotion to individual freedom, for example, or social opportunityâ€”exist in other countries. But birthright citizenship does make the United States along with Canada unique in the developed world. Howard of Michiganâ€”the author of the Citizenship Clause [46] â€”described the clause as having the same content, despite different wording, as the earlier Civil Rights Act of , namely, that it excludes Native Americans who maintain their tribal ties and "persons born in the United States who are foreigners, aliens, who belong to the families of ambassadors or foreign ministers. LaFantasie of Western Kentucky University , "A good number of his fellow senators supported his view of the citizenship clause. The Supreme Court held that Native Americans who voluntarily quit their tribes did not automatically gain national citizenship. Wong Kim Ark Subsequent decisions have applied the principle to the children of foreign nationals of non-Chinese descent. Fraud in the naturalization process. Technically, this is not a loss of citizenship but rather a voiding of the purported naturalization and a declaration that the immigrant never was a citizen of the United States. The State department views such affiliations as sufficient evidence that an applicant must have lied or concealed evidence in the naturalization process. This may be accomplished either through renunciation procedures specially established by the State Department or through other actions that demonstrate desire to give up national citizenship. However, the Supreme Court repudiated this concept in Afroyim v. Rusk , [69] as well as Vance v. Terrazas , [70] holding that the Citizenship Clause of the Fourteenth Amendment barred the Congress from revoking citizenship. However, Congress can revoke citizenship that it had previously granted to a person not born in the United States. Privileges or Immunities Clause The Privileges or Immunities Clause, which protects the privileges and immunities of national citizenship from interference by the states, was patterned after the Privileges and Immunities Clause of Article IV, [72] which protects the privileges and immunities of state citizenship from interference by other states. Roe , [77] the Court ruled that a component of the " right to travel " is protected by the Privileges or Immunities Clause: Despite fundamentally differing views concerning the coverage of the Privileges or Immunities Clause of the Fourteenth Amendment, most notably expressed in the majority and dissenting opinions in the Slaughter-House Cases , it has always been

common ground that this Clause protects the third component of the right to travel. Writing for the majority in the Slaughter-House Cases, Justice Miller explained that one of the privileges conferred by this Clause "is that a citizen of the United States can, of his own volition, become a citizen of any State of the Union by a bona fide residence therein, with the same rights as other citizens of that State. Chicago , Justice Clarence Thomas , while concurring with the majority in incorporating the Second Amendment against the states, declared that he reached this conclusion through the Privileges or Immunities Clause instead of the Due Process Clause. Due Process Clause In the case of Hurtado v. California , the U. The Due Process Clause of the Fourteenth Amendment applies only against the states, but it is otherwise textually identical to the Due Process Clause of the Fifth Amendment , which applies against the federal government; both clauses have been interpreted to encompass identical doctrines of procedural due process and substantive due process. Substantive due process Beginning with Allgeyer v. Louisiana , [84] the Court interpreted the Due Process Clause as providing substantive protection to private contracts, thus prohibiting a variety of social and economic regulation; this principle was referred to as " freedom of contract. New York [86] and struck down a minimum wage law in Adkins v. Nebraska , [88] the Court stated that the "liberty" protected by the Due Process Clause [w]ithout doubt Kansas , , [90] laws declaring maximum hours for mine workers Holden v. Hardy , , [91] laws declaring maximum hours for female workers Muller v. New, , [93] as well as federal laws regulating narcotics United States v. It is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints,. Connecticut [97] for further information see below. Although the "freedom of contract" described above has fallen into disfavor, by the s, the Court had extended its interpretation of substantive due process to include other rights and freedoms that are not enumerated in the Constitution but that, according to the Court, extend or derive from existing rights. The Court first ruled that privacy was protected by the Constitution in Griswold v. Connecticut , which overturned a Connecticut law criminalizing birth control. Douglas wrote for the majority that the right to privacy was found in the "penumbras" of various provisions in the Bill of Rights, Justices Arthur Goldberg and John Marshall Harlan II wrote in concurring opinions that the "liberty" protected by the Due Process Clause included individual privacy. Casey , [] the Court decided that "the essential holding of Roe v. Wade should be retained and once again reaffirmed. Texas , [] the Court found that a Texas law against same-sex sexual intercourse violated the right to privacy. Hodges , the Court ruled that the fundamental right to marriage included same-sex couples being able to marry. For example, in Caperton v. Incorporation of the Bill of Rights While many state constitutions are modeled after the United States Constitution and federal laws, those state constitutions did not necessarily include provisions comparable to the Bill of Rights. Baltimore , [] the Supreme Court unanimously ruled that the Bill of Rights restrained only the federal government, not the states. Timbs will decide whether the Excessive Fines Clause of the Eighth Amendment should be applied to the states. Under Black Codes, blacks could not sue, give evidence, or be witnesses. They also were punished more harshly than whites. West Virginia that the Equal Protection Clause was designed to assure to the colored race the enjoyment of all the civil rights that under the law are enjoyed by white persons, and to give to that race the protection of the general government, in that enjoyment, whenever it should be denied by the States. The Clause mandates that individuals in similar situations be treated equally by the law. Sharpe , has applied the Clause against the federal government through the Due Process Clause of the Fifth Amendment under a doctrine called " reverse incorporation. Hopkins , the Supreme Court has clarified that the meaning of "person" and "within its jurisdiction" in the Equal Protection Clause would not be limited to discrimination against African Americans, but would extend to other races, colors, and nationalities such as in this case legal aliens in the United States who are Chinese citizens: Persons "within its jurisdiction" are entitled to equal protection from a state. Largely because the Privileges and Immunities Clause of Article IV has from the beginning guaranteed the privileges and immunities of citizens in the several states, the Supreme Court has rarely construed the phrase "within its jurisdiction" in relation to natural persons. Doe , where the Court held that aliens illegally present in a state are within its jurisdiction and may thus raise equal protection claims [] [] the Court explicated the meaning of the phrase "within its jurisdiction" as follows: Senator Howard was explicit about the broad objectives of the Fourteenth Amendment and the intention to make its provisions

applicable to all who "may happen to be" within the jurisdiction of a state:

Chapter 3 : Manifest Destiny - HISTORY

A. Describe the Warren Court and the expansion of individual rights as seen in the Miranda decision. Individual Rights During most of the s and s, the U.S. Supreme Court was headed by Chief Justice Earl Warren.

The Gallup Organization The court was a compromise between those who wanted to leave U. But because the agencies are not investigating domestic crime, they do not have to meet the probable cause standard. They only have to certify that the purpose of the investigation is to track a foreign government or agent. They do not have to report to the court on the results of the surveillance. The Patriot Act expands all these exceptions to the probable-cause requirement. Section of the act permits the FBI to go before the Foreign Intelligence Surveillance Court for an order to search for "any tangible things" connected to a terrorism suspect. The order would be granted as long as the FBI certifies that the search is "to protect against international terrorism or clandestine intelligence activities [spying]. The Patriot Act now authorizes this court to issue search orders directed at any U. Such activities may, in part, even involve First Amendment protected acts such as participating in non-violent public protests. In Section , "any tangible things" may include almost any kind of property--such as books, documents, and computers. The FBI may also monitor or seize personal records held by public libraries, bookstores, medical offices, Internet providers, churches, political groups, universities, and other businesses and institutions. The Patriot Act prohibits third parties served with Section orders such as Internet providers and public librarians to inform anyone that the FBI has conducted a search of their records. Section of the Patriot Act extends pen-trap orders to include e-mail and web browsing. Another area of concern is Section of the Patriot Act. It authorizes so-called "sneak- and-peek" searches for all federal criminal investigations. When applying for a search warrant, officers may show that there is "reasonable cause to believe that providing immediate notification. The FBI says these searches may be necessary to prevent the destruction of evidence or to keep from jeopardizing an ongoing secret investigation. In response to criticism of the act, Congress may be having some second thoughts. The House of Representatives voted to repeal "sneak- and-peek" searches. This is a comprehensive bill, addressing a number of issues related to the Patriot Act. One part of the Murkowski-Wyden bill would limit "sneak and peek" searches. Those whose homes or offices had been searched under "sneak and peek" would have to be notified within seven calendar days. Public opinion has consistently supported the Patriot Act. Only 21 percent responded that it goes too far. Fifty-five percent said it is about right, and 19 percent answered that it does not go far enough. In June , the attorney general called for another law to further strengthen the powers of law enforcement to fight terrorists. Called "Patriot Act II" by critics, the proposed new law would, among other things, enable the government to ask a court to revoke the citizenship of any American who provides "material support" to terrorists. The courts are just beginning to review the constitutionality of the Patriot Act. Section is likely to chill lawful dissent. If people think that their conversations, their emails, and their reading habits are being monitored, people will feel less comfortable saying what they think--especially if they disagree with government policies. She said there was no reason for anyone to feel "afraid to read books" or "terrified into silence. The basic question that the court will have to answer is: What is the proper balance between national security and protecting individual rights? Do you think participants in public protests could ever be accused of "domestic terrorism" under this definition? Why or why not? The Justice Department has proposed that the government should be able to ask a court to revoke the citizenship of any American who provides "material support" to terrorists. Do you support the proposal? Below are two famous quotations. What do they mean? Which, if any, do you agree with? Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety. Jackson, dissenting in Terminiello v. City of Chicago For Further Reading.

Chapter 4 : The Patriot Act - Constitutional Rights Foundation

The legalization of same-sex marriage is reflective of a theme that is clearly evident in our history and related to the expansion of individual rights. In , same sex marriage was prohibited in every state and only 27% of Americans said they supported same-sex marriage.

Over the years his ability to lead the Court, to forge majorities in support of major decisions, and to inspire liberal forces around the nation, outweighed his intellectual weaknesses. Warren realized his weakness and asked the senior associate justice, Hugo L. Black , to preside over conferences until he became accustomed to the drill. Roosevelt or Truman, and all were committed New Deal liberals. They disagreed about the role that the courts should play in achieving liberal goals. The Court was split between two warring factions. Felix Frankfurter and Robert H. Jackson led one faction, which insisted upon judicial self-restraint and insisted courts should defer to the policymaking prerogatives of the White House and Congress. Hugo Black and William O. Douglas led the opposing faction that agreed the court should defer to Congress in matters of economic policy, but felt the judicial agenda had been transformed from questions of property rights to those of individual liberties, and in this area courts should play a more central role. When Frankfurter retired in and President John F. Kennedy named labor union lawyer Arthur Goldberg to replace him, Warren finally had the fifth vote for his liberal majority. Warren and Brennan met before the regular conferences to plan out their strategy. Board of Education [edit] Brown v. Board of Education U. Ferguson and finally had challenged Plessy in a series of five related cases, which had been argued before the Court in the spring of Warren, who held only a recess appointment, held his tongue until the Senate, dominated by southerners, confirmed his appointment. Warren told his colleagues after oral argument that he believed segregation violated the Constitution and that only if one considered African Americans inferior to whites could the practice be upheld. But he did not push for a vote. Instead, he talked with the justices and encouraged them to talk with each other as he sought a common ground on which all could stand. Finally he had eight votes, and the last holdout, Stanley Reed of Kentucky, agreed to join the rest. Warren drafted the basic opinion in Brown v. Board of Education and kept circulating and revising it until he had an opinion endorsed by all the members of the Court. Throughout his years as Chief, Warren succeeded in keeping all decisions concerning segregation unanimous. Brown applied to schools, but soon the Court enlarged the concept to other state actions, striking down racial classification in many areas. Under Warren the courts became an active partner in governing the nation, although still not coequal. Warren never saw the courts as a backward-looking branch of government. The Brown decision was a powerful moral statement. His biographer concludes, "If Warren had not been on the Court, the Brown decision might not have been unanimous and might not have generated a moral groundswell that was to contribute to the emergence of the civil rights movement of the s. He wanted results that in his opinion reflected the best American sentiments. Carr and Reynolds v. Sims of â€”, had the effect of ending the over-representation of rural areas in state legislatures, as well as the under-representation of suburbs. For years underpopulated rural areas had deprived metropolitan centers of equal representation in state legislatures. Cities had long since passed their peak, and now it was the middle class suburbs that were underrepresented. Frankfurter insisted that the Court should avoid this "political thicket" and warned that the Court would never be able to find a clear formula to guide lower courts in the rash of lawsuits sure to follow. But Douglas found such a formula: Sims [23] Warren delivered a civics lesson: The states complied, reapportioned their legislatures quickly and with minimal troubles. Wainwright , U. Arizona , U. Warren took the lead in criminal justice; despite his years as a tough prosecutor, always insisted that the police must play fair or the accused should go free. Warren was privately outraged at what he considered police abuses that ranged from warrantless searches to forced confessions. Wainwright , and prevented prosecutors from using evidence seized in illegal searches, in Mapp v. The famous case of Miranda v. Warren did not believe in coddling criminals; thus in Terry v. Ohio he gave police officers leeway to stop and frisk those they had reason to believe held weapons. Conservatives angrily denounced the "handcuffing of the police. Controversy exists about the cause, with conservatives blaming the Court decisions, and liberals pointing to the

demographic boom and increased urbanization and income inequality characteristic of that era. After the homicide rates fell sharply. Vitale brought vehement complaints by conservatives that echoed into the 21st century. Moreover, in one of the landmark cases decided by the Court, Griswold v. Connecticut , the Warren Court affirmed a constitutionally protected right of privacy , emanating from the Due Process Clause of the Fourteenth Amendment, also known as substantive due process. Wade and consequent legalization of abortion. With the exception of the desegregation decisions, few decisions were unanimous. But with the appointment of Thurgood Marshall , the first black justice as well as the first non-white justice , and Abe Fortas replacing Goldberg , Warren could count on six votes in most cases. Douglas , Robert H. Clark , and Sherman Minton. Another vacancy took place when Reed retired in , and was replaced by Charles Evans Whittaker , and then Burton retired in , with Eisenhower appointing Potter Stewart in his place. Kennedy a chance to appoint two new members: Byron White and Arthur Goldberg. However, President Lyndon B. Johnson encouraged Goldberg to resign in to become Ambassador of the United Nations, and nominated Abe Fortas to take his place. Clark retired in , and Johnson appointed Thurgood Marshall to the court. Chief Justice Associate Justice.

Chapter 5 : Intellectual Property (Stanford Encyclopedia of Philosophy)

Individual rights refer to the liberties of each individual to pursue life and goals without interference from other individuals or the government. Examples of individual rights include the right to life, liberty and the pursuit of happiness as stated in the United States Declaration of Independence.

A Marxian perspective by Zoltan Zigedy For nearly three hundred and fifty years, human rights have been important, if not dominant, instruments in the endeavor for social justice. For much of this history, contestants have cited universal rights as marking their position on the field of struggle. It is equally important to notice that before the seventeenth century, social justice was more often than not contested in a language other than rights-talk. Instead, they sought to replace unjust lords or appeal to their regent for redress from injustice. It was not their rights that they demanded â€" for they knew of none â€" but a measure of fairness or humane treatment. Let us go to the King â€" he is young â€" and show him how we are oppressed, and tell him that we want things to be changed, or that we shall change them ourselves. Less than three hundred years later, human rights, universal rights, had established a solid beach head in social justice thinking. Heralding a new age of constitutions the codification of rights , the English Civil War provoked debates over a world devoid of feudal privilege and divine right. The Levellers, a radical faction in the anti-crown movement, stood for the equality and universality of human rights. All the main thing that I speak for, is because I would have an eye to property. I hope we do not come here to contend for victory â€" but let every man consider to himself that he do not go to take away all property. For here is the case of the most fundamental part of the constitution of the kingdom, which if you take away, you take away all by thatâ€¦by that same right of nature whatever it be that you pretend, by which you can say, one man hath an equal right with another to the choosing of him that shall govern him â€" by that same right of nature he hath the same right in any goods he sees â€" meat, drink, clothes â€" to take and use them for his sustenance. In his view, no one could seriously deny the validity of property ownership. Thus, the idea of a universal, equal right to choose who governs cannot be recognized without sanctioning the right to violate property ownership. Ireton is confident that no one engaged in the debate would want that result. It is this ill-fit of property rights that has always challenged human rights doctrine. It is hard to square the universality of possession as well as the equality of exercise and enjoyment promised by declarations of human rights with the asymmetries and inequalities of alleged property rights. It is difficult to find equality and universality in the distribution of property. Nonetheless, apologists for the right to property have craftily defended it by conflating the inalienability of rights with the inalienability of property as opposed to the inalienability of the right to property. That is, Ireton could understand rights generated by convention or dictated by authority a sovereign or deity. But he found it incredible to accept rights as somehow embedded in nature or revealed through a study of nature. Early rights advocates and their critics confronted the anomalies inherent in rights doctrines more seriously than modern adherents who simply take the coherence of rights-talk for granted. Richard Tuck, in his essential study of the origins of human rights[3], begins his painstaking history with an account by a Benedictine monk in who reflects on the stress between a kind of classic rights-talk ius and a kind of classic property-talk dominium. In the end they scramble to ground rights in self-evidence or a rational construction from a hypothetical state-of-nature. Grotius serves as an example of the former, a reflexive understanding of rights. In our time, philosophers have generally sought to justify human rights through some variant of social contract, the legacy of Hobbes. Consequentialist theories, like utilitarianism, are generally incompatible with or, at least uncomfortable with, social instruments that are both supposedly inalienable and universal. They are often conceived as counterparts in the moral sphere to laws of nature. That is, they are believed to share universal application with the laws of nature; they are thought to not function only at some specific time and place, but at all times and all places. In the case of the laws that govern bodies at rest or bodies in motion, we might say that they are never suspended. Similarly, the right to speak freely or to travel unfettered are believed to be both inalienable and universal and, therefore, never suspended. Experience teaches that rights often collide with one another. For example, your right to travel freely may conflict with my right to protect the land that is my source of food. Examples abound in the

real world of jurisprudence, examples that require arbitration of conflicting rights. Moreover, when one right trumps another, we may coherently speak of the former as being voided, a mode of speech that suggests that rights are not universal in anyway like the universality of scientific laws. Those who cling to the notion that human rights are like scientific laws insist that they are discovered or recognized. That is, like the laws of thermodynamics, human rights applied in ancient times even though no one recognized them. Thus, the slaves of the Roman Empire were systematically denied their human rights though no one had yet acknowledged them. However, this interpretation stretches credibility when we notice that nearly all human rights are socially bound; excepting perhaps the right to life, human rights presuppose social conventions or institutions and surely would have no meaningful existence prior to the creation of those social artifacts. Consider, for example, the right to a free press. With human rights doctrine and rights-talk dominant in our time, the generation of new rights becomes ubiquitous and ordinary. New kinds of rights e. While rights-talk is omnipresent in political discourse, its expansion courts dilution and triviality. The concerns voiced above challenge the smugness of human rights advocates who celebrate human rights doctrines as the final measure of social justice. The objections suggest that justifying human rights or human rights codes is neither obvious nor problem-free; they suggest that the notion of rights is not nearly as coherent as adherents make it out to be; they suggest that the scope or range of rights is neither sharply bound nor bound at all; and they suggest that human rights are contingently constructed instruments that have both a history and an evolution. It is the last point that opens the way to any serious examination of human rights and their usefulness. Human Rights and Marxism Clarity comes with the undertaking of the archeology of universal human rights. A painstaking sifting through the historical record of rights-talk traces its transformation from an ancient notion of a kind of individual ownership, essentially a private relation between individuals ius to a more robust and generalized relation of rights held against everyone and, finally, held by everyone. This evolution coincided fairly closely with the exhaustion and elimination of feudal privilege and the emergence and maturation of capitalist relations of production and distribution. The implications of this research in the history of ideas escapes contemporary Anglo-American philosophers who dabble on the fringes of the human rights question with marginal matters of fetal rights, animal rights, or corporate rights. Still others wrangle over foundational issues that promise to anchor human rights in the moral universe now and forever. The very idea of human rights as an evolving social instrument best assessed and recommended for its historically determined social efficacy and appropriateness is repellent to most contemporary academic philosophers. But that surely is a simplistic, absolutist posture. It is possible to accord validity to individual rights, systems of rights, beneficiaries of rights, and holders of rights at specific times and in specific places. It is far from relativism to grant that rights are useful, even essential, or appropriate depending upon the circumstances. To insist on the absolute universality of applicability, range, and scope of human rights dogmatically invites the problems sketched above. Perhaps no one saw institutions, practices, and the other artifacts of human history as adaptive, evolving social constructs as did Karl Marx. For Marx, social entities such as human rights were mere epiphenomena for social relations. He saw them as artifacts of the rise of the bourgeoisie to be the dominant social force in the modern era. Human rights slogans, codes, and constitutions were the tools for unshackling and promoting this emerging ruling class and its world view. In Bruno Bauer, Die Judenfrage, Marx understands the rights of man as both canonizing individualism and defining the bounds of social life: None of the supposed rights of man, therefore, go beyond the egoistic manâ€¦that is, an individual separated from the community, withdrawn into himself, wholly preoccupied with his private interest and acting in accordance with his private capriceâ€¦The only bond between men is natural necessity, need and private interest, the preservation of their private property and their egoistic persons. This theme is further developed in a later work, Capital, where the domain of capitalist relations of production is claimed as co-extensive with the domain of human rights. Moreover, they mutually advantage each other: And the capitalist mode of production generates and compels the individualism and self-interest essential for the allure of individual human rights. This sphere that we are deserting, within whose boundaries the sale and purchase of labour-power goes on, is in fact a very Eden of the innate rights of man. There alone rule Freedom, Equality, Property and Bentham. Freedom, because both buyer and seller of a commodity, say of labour-power, are

constrained only by their own free will. They contract as free agents, and the agreement they come to, is but the form in which they give legal expression to their common will. Equality, because each enters into relation with the other, as with a simple owner of commodities, and they exchange equivalent for equivalent. Property, because each disposes only of what is his own. And Bentham, because each looks only to himself. The only force that brings them together and puts them in relation with each other, is the selfishness, the gain and the private interests of each. Each looks to himself only, and no one troubles himself about the rest, and just because they do so, do they all, in accordance with the pre-established harmony of things, or under the auspices of an all-shrewd providence, work together to their mutual advantage, for the common weal and in the interest of all. For Marxists, declarations and codifications of human rights are inseparable from their role in bourgeois society, their place in the social fabric of capitalism. Human rights doctrine serves as a secure and compatible foundation for morality, law, and politics in the ascendency and maturation of the capitalist mode of production. Friedrich Engels summarized the Marxist opinion of human rights in Socialism: They recognized no external authority of any kind whatever. Religion, natural science, society, political institutions â€" everything was subjected to the most unsparing criticism: Reason became the sole measure of everything. It was the time when, as Hegel says, the world stood upon its head: Every form of society and government then existing, every old traditional notion, was flung into the lumber-room as irrational; the world had hitherto allowed itself to be led solely by prejudices; everything in the past deserved only pity and contempt. Now, for the first time, appeared the light of day, the kingdom of reason; henceforth superstition, injustice, privilege, oppression, were to be superseded by eternal truth, eternal Right, equality based on Nature and the inalienable rights of man. We know today that this kingdom of reason was nothing more than the idealized kingdom of the bourgeoisie; that this eternal Right found its realization in bourgeois justice; that this equality reduced itself to bourgeois equality before the law; that bourgeois property was proclaimed as one of the essential rights of man; and that the government of reason, the Contrat Social of Rousseau, came into being, and only could come into being, as a democratic bourgeois republic. The great thinkers of the 18th century could, no more than their predecessors, go beyond the limits imposed upon them by their epoch. Individual rights, inalienable and universal, constitute the moral, legal, and political framework most compatible and agreeable with the capitalist system. That is not to condemn human rights, but to place their emergence and development in the context of the emergence and development of capitalism. Insofar as capitalism was a liberating force, human rights counted as the basis for a more just and liberating society. The emancipation of the bourgeoisie was, in important ways, a giant step in the emancipation of the masses, the advance of working people. In fact, declarations of and constitutions acknowledging human rights inspired millions to struggle for greater participation in civic and political life in bourgeois republics. The call for human rights has served the fight against the bondage of slavery, the struggle for universal suffrage and many other essential reforms. They do not challenge it. Understanding and Misunderstanding the Marxist Critique of Human Rights Marxists have never been hostile to human rights doctrines per se. They have, however, criticized the fetishism of human rights and denied them unique status as the sole or central arbiter of morality and social justice. They have disputed their authority for all times and for all places. Throughout the twentieth century, Marxists have couched many radical demands in the language of rights, from unionization campaigns to national self-determination. Communists have fought for the right to a fair trial for many victims of prejudice and injustice. They have been prominent among those who have advanced the cause of the civil rights of racially and nationally oppressed groups. And they have fought for their own rights to free association, speech, and the dissemination of ideas.

Chapter 6 : Chapter Civil Rights | American Politics Today, Core 2e: W. W. Norton StudySpace

Some employment rights relating to maternity leave and pay preâ€•date the current Labour Government but there have been improvements and expansion of individual employment rights in this and related areas (e.g. parental, family and paternity leave), accompanied by a reâ€•branding of such rights as "family friendly" or workâ€•life balance.

He is noted for his civil rights and anti-trust decisions. And yet, as former Justice Frankfurter explained in the quote above, the people who test liberties and rights in our courts are not always ideal citizens. Consider some of these examples: A pick ax murderer on death row who found God and asked for clemency A publisher of magazines, books, and photos convicted for sending obscene materials through the United States mail A convict whose electrocution was botched when 2, volts of electricity rushed into his body, causing flames to leap from his head A university student criminally charged for writing and publishing on the internet about torturing and murdering women Each of these people made sensational headline news as the center of one of many national civil liberties disputes in the late 20th century. They became involved in the legal process because of behavior that violated a law, and almost certainly, none of them intended to become famous. More important than the headlines they made, however, is the role they played in establishing important principles that define the many civil liberties and civil rights that Americans enjoy today. What is the difference between a liberty and a right? Both words appear in the Declaration of Independence and the Bill of Rights. The distinction between the two has always been blurred, and today the concepts are often used interchangeably. However, they do refer to different kinds of guaranteed protections. Civil liberties are protections against government actions. For example, the First Amendment of the Bill of Rights guarantees citizens the right to practice whatever religion they please. Amendment I gives the individual "liberty" from the actions of the government. Civil rights, in contrast, refer to positive actions of government should take to create equal conditions for all Americans. The term "civil rights" is often associated with the protection of minority groups, such as African Americans, Hispanics, and women. The government counterbalances the "majority rule" tendency in a democracy that often finds minorities outvoted. Right The Chicago Defender, an African-American newspaper, trumpets the desegregation of the military. The right to participate in public institutions is a key component of civil rights. Most Americans think of civil rights and liberties as principles that protect freedoms all the time. However, the truth is that rights listed in the Constitution and the Bill of Rights are usually competing rights. For example, in , the New York Times published the "Pentagon Papers" that revealed some negative actions of the government during the Vietnam War. The government sued the newspaper, claiming that the reports endangered national security. The New York Times countered with the argument that the public had the right to know and that its freedom of the press should be upheld. So, the situation was national security v. A tough call, but the Court chose to uphold the rights of the press. The Bill of Rights and 14th Amendment The overwhelming majority of court decisions that define American civil liberties are based on the Bill of Rights, the first ten amendments added to the Constitution in Civil liberties protected in the Bill of Rights may be divided into two broad areas: Civil rights are also protected by the Fourteenth Amendment, which protects violation of rights and liberties by the state governments. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age [Changed by the 26th Amendment], and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens

shall bear to the whole number of male citizens twenty-one years of age in such state. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. Protection of civil liberties and civil rights is basic to American political values, but the process is far from easy. How far should the government go to take "positive action" to protect minorities? The answers often come from individuals who brush most closely with the law, whose cases help to continually redefine American civil liberties and rights.

Chapter 7 : liberalism | Definition, History, & Facts | blog.quintoapp.com

These first ten amendments to the Constitution became known as the Bill of Rights and still stand as both the symbol and foundation of American ideals of individual liberty, limited government, and the rule of law. Most of the Bill of Rights concerns legal protections for those accused of crimes.

For utilitarianism and Hegelianism, and their combination in various forms of liberal thought, theâ€¦ This article discusses the political foundations and history of liberalism from the 17th century to the present. For coverage of classical and contemporary philosophical liberalism, see political philosophy. General characteristics Liberalism is derived from two related features of Western culture. Throughout much of history, the individual has been submerged in and subordinate to his clan , tribe , ethnic group , or kingdom. Liberalism is the culmination of developments in Western society that produced a sense of the importance of human individuality, a liberation of the individual from complete subservience to the group, and a relaxation of the tight hold of custom, law , and authority. In this respect, liberalism stands for the emancipation of the individual. Liberalism also derives from the practice of adversariality in European political and economic life, a process in which institutionalized competitionâ€”such as the competition between different political parties in electoral contests , between prosecution and defense in adversary procedure , or between different producers in a market economy see monopoly and competition â€”generates a dynamic social order. Adversarial systems have always been precarious, however, and it took a long time for the belief in adversariality to emerge from the more traditional view, traceable at least to Plato , that the state should be an organic structure, like a beehive, in which the different social classes cooperate by performing distinct yet complementary roles. The belief that competition is an essential part of a political system and that good government requires a vigorous opposition was still considered strange in most European countries in the early 19th century. Underlying the liberal belief in adversariality is the conviction that human beings are essentially rational creatures capable of settling their political disputes through dialogue and compromise. This aspect of liberalism became particularly prominent in 20th-century projects aimed at eliminating war and resolving disagreements between states through organizations such as the League of Nations , the United Nations , and the International Court of Justice World Court. Liberalism has a close but sometimes uneasy relationship with democracy. At the centre of democratic doctrine is the belief that governments derive their authority from popular election; liberalism, on the other hand, is primarily concerned with the scope of governmental activity. Liberals often have been wary of democracy , then, because of fears that it might generate a tyranny by the majority. One might briskly say, therefore, that democracy looks after majorities and liberalism after unpopular minorities. Like other political doctrines, liberalism is highly sensitive to time and circumstance. The expansion of governmental power and responsibility sought by liberals in the 20th century was clearly opposed to the contraction of government advocated by liberals a century earlier. In the 19th century liberals generally formed the party of business and the entrepreneurial middle class; for much of the 20th century they were more likely to work to restrict and regulate business in order to provide greater opportunities for labourers and consumers. This willingness is tempered by an aversion to sudden, cataclysmic change, which is what sets off the liberal from the radical. It is this very eagerness to welcome and encourage useful change, however, that distinguishes the liberal from the conservative , who believes that change is at least as likely to result in loss as in gain. In the Middle Ages the rights and responsibilities of the individual were determined by his place in a hierarchical social system that placed great stress upon acquiescence and conformity. Under the impact of the slow commercialization and urbanization of Europe in the later Middle Ages, the intellectual ferment of the Renaissance , and the spread of Protestantism in the 16th century, the old feudal stratification of society gradually began to dissolve, leading to a fear of instability so powerful that monarchical absolutism was viewed as the only remedy to civil dissension. However, as such intervention increasingly served established interests and inhibited enterprise, it was challenged by members of the newly emerging middle class. This challenge was a significant factor in the great revolutions that rocked England and France in the 17th and 18th centuriesâ€”most notably the English Civil Wars â€”51 , the Glorious Revolution , the American Revolution

â€”83 , and the French Revolution Classical liberalism as an articulated creed is a result of those great collisions. In the English Civil Wars, the absolutist king Charles I was defeated by the forces of Parliament and eventually executed. The Glorious Revolution resulted in the abdication and exile of James II and the establishment of a complex form of balanced government in which power was divided between the king, his ministers, and Parliament. In time this system would become a model for liberal political movements in other countries. The political ideas that helped to inspire these revolts were given formal expression in the work of the English philosophers Thomas Hobbes and John Locke. In Leviathan , Hobbes argued that the absolute power of the sovereign was ultimately justified by the consent of the governed, who agreed, in a hypothetical social contract , to obey the sovereign in all matters in exchange for a guarantee of peace and security. Locke also held a social-contract theory of government, but he maintained that the parties to the contract could not reasonably place themselves under the absolute power of a ruler. Absolute rule, he argued, is at odds with the point and justification of political authority, which is that it is necessary to protect the person and property of individuals and to guarantee their natural rights to freedom of thought, speech, and worship. Significantly, Locke thought that revolution is justified when the sovereign fails to fulfill these obligations. Indeed, it appears that he began writing his major work of political theory, Two Treatises of Government , precisely in order to justify the revolution of two years before. Locke was a notable Whig, and it is conventional to view liberalism as derived from the attitudes of Whig aristocrats, who were often linked with commercial interests and who had an entrenched suspicion of the power of the monarchy. Liberalism and democracy The early liberals, then, worked to free individuals from two forms of social constraintâ€”religious conformity and aristocratic privilegeâ€”that had been maintained and enforced through the powers of government. The aim of the early liberals was thus to limit the power of government over the individual while holding it accountable to the governed. As Locke and others argued, this required a system of government based on majority ruleâ€”that is, one in which government executes the expressed will of a majority of the electorate. The chief institutional device for attaining this goal was the periodic election of legislators by popular vote and of a chief executive by popular vote or the vote of a legislative assembly. But in answering the crucial question of who is to be the electorate, classical liberalism fell victim to ambivalence , torn between the great emancipating tendencies generated by the revolutions with which it was associated and middle-class fears that a wide or universal franchise would undermine private property. As to those who have no landed property in a county, the allowing them to vote for legislators is an impropriety. They are transient inhabitants, and not so connected with the welfare of the state, which they may quit when they please, as to qualify them properly for such privilege. Most 18th- and 19th-century liberal politicians thus feared popular sovereignty. For a long time, consequently, they limited suffrage to property owners. In Britain even the important Reform Bill of did not completely abolish property qualifications for the right to vote. In the United States, the brave language of the Declaration of Independence notwithstanding, it was not until that universal male suffrage prevailedâ€”for whites. In most of Europe, universal male suffrage remained a remote ideal until late in the 19th century. Racial and sexual prejudice also served to limit the franchiseâ€”and, in the case of slavery in the United States, to deprive large numbers of people of virtually any hope of freedom. Efforts to extend the vote to women met with little success until the early years of the 20th century see woman suffrage. The problem was to accomplish this in a manner consistent with democratic principles. Separation of powers The liberal solution to the problem of limiting the powers of a democratic majority employed various devices. The first was the separation of powers â€”i. This arrangement, and the system of checks and balances by which it was accomplished, received its classic embodiment in the Constitution of the United States and its political justification in the Federalist papers â€”88 , by Alexander Hamilton , James Madison , and John Jay. But it was despotic kings and functionless aristocratsâ€”more functionless in France than in Britainâ€”who thwarted the interests and ambitions of the middle class, which turned, therefore, to the principle of majoritarianism. James Madison, detail of an oil painting by Asher B. Collection of The New-York Historical Society Periodic elections The second part of the solution lay in using staggered periodic elections to make the decisions of any given majority subject to the concurrence of other majorities distributed over time. In the United States, for example, presidents are elected every four years and members of the House of Representatives every two

years, and one-third of the Senate is elected every two years to terms of six years. Therefore, the majority that elects a president every four years or a House of Representatives every two years is different from the majority that elects one-third of the Senate two years earlier and the majority that elects another one-third of the Senate two years later. In Britain an act of Parliament immediately becomes part of the uncodified constitution; however, before acting on a highly controversial issue, Parliament must seek a popular mandate , which represents a majority other than the one that elected it. Thus, in a constitutional democracy, the power of a current majority is checked by the verdicts of majorities that precede and follow it. From the liberal perspective, the individual is not only a citizen who shares a social contract with his fellows but also a person with rights upon which the state may not encroach if majoritarianism is to be meaningful. A majority verdict can come about only if individuals are free to some extent to exchange their views. This involves, beyond the right to speak and write freely, the freedom to associate and organize and, above all, freedom from fear of reprisal. But the individual also has rights apart from his role as citizen. These rights secure his personal safety and hence his protection from arbitrary arrest and punishment. Beyond these rights are those that preserve large areas of privacy. In a liberal democracy there are affairs that do not concern the state. Such affairs may range from the practice of religion to the creation of art and the raising of children by their parents. For liberals of the 18th and 19th centuries they also included most of the activities through which individuals engage in production and trade. Eloquent declarations affirming such rights were embodied in the British Bill of Rights , the U. Declaration of Independence and Constitution ratified , the French Declaration of the Rights of Man and of the Citizen , and the basic documents of countries throughout the world that later used these declarations as their models. These documents and declarations asserted that freedom is more than the right to cast a vote in an occasional election; it is the fundamental right of people to live their own lives. Economic foundations If the political foundations of liberalism were laid in Great Britain, so too were its economic foundations. By the 18th century parliamentary constraints were making it difficult for British monarchs to pursue the schemes of national aggrandizement favoured by most rulers on the Continent. These rulers fought for military supremacy, which required a strong economic base. Because the prevailing mercantilist theory understood international trade as a zero-sum gameâ€”in which gain for one country meant loss for anotherâ€”national governments intervened to determine prices, protect their industries from foreign competition, and avoid the sharing of economic information. These practices soon came under liberal challenge. In France a group of thinkers known as the physiocrats argued that the best way to cultivate wealth is to allow unrestrained economic competition. This laissez-faire doctrine found its most thorough and influential exposition in The Wealth of Nations , by the Scottish economist and philosopher Adam Smith. Free trade benefits all parties, according to Smith, because competition leads to the production of more and better goods at lower prices. Leaving individuals free to pursue their self-interest in an exchange economy based upon a division of labour will necessarily enhance the welfare of the group as a whole. The self-seeking individual becomes harnessed to the public good because in an exchange economy he must serve others in order to serve himself. But it is only in a genuinely free market that this positive consequence is possible; any other arrangement, whether state control or monopoly, must lead to regimentation, exploitation, and economic stagnation. Courtesy of the Scottish National Portrait Gallery, Edinburgh Every economic system must determine not only what goods will be produced but also how those goods are to be apportioned, or distributed see distribution of wealth and income. In a market economy both of these tasks are accomplished through the price mechanism. The theoretically free choices of individual buyers and sellers determine how the resources of societyâ€” labour , goods, and capitalâ€”shall be employed. Theoretically, when the demand for a commodity is great, prices rise, making it profitable for producers to increase the supply; as supply approximates demand, prices tend to fall until producers divert productive resources to other uses see supply and demand. In this way the system achieves the closest possible match between what is desired and what is produced. Moreover, in the distribution of the wealth thereby produced, the system is said to assure a reward in proportion to merit. The assumption is that in a freely competitive economy in which no one is barred from engaging in economic activity, the income received from such activity is a fair measure of its value to society. Presupposed in the foregoing account is a conception of human beings as economic animals rationally and

self-interestedly engaged in minimizing costs and maximizing gains. Since each person knows his own interests better than anyone else does, his interests could only be hindered, and never enhanced , by government interference in his economic activities. In concrete terms, classical liberal economists called for several major changes in the sphere of British and European economic organization. The second was an end to the tariffs and restrictions that governments imposed on foreign imports to protect domestic producers. In economic life as in politics, then, the guiding principle of classical liberalism became an undeviating insistence on limiting the power of government. The English philosopher Jeremy Bentham cogently summarized this view in his sole advice to the state: Classical liberals freely acknowledged that government must provide education , sanitation, law enforcement, a postal system , and other public services that were beyond the capacity of any private agency. But liberals generally believed that, apart from these functions, government must not try to do for the individual what he is able to do for himself. Taking their cue from the notion of a market economy, the utilitarians called for a political system that would guarantee its citizens the maximum degree of individual freedom of choice and action consistent with efficient government and the preservation of social harmony.

Chapter 8 : Fourteenth Amendment to the United States Constitution - Wikipedia

Momentary period of hope and economic progress followed by imposition of rigid racial order in South - disfranchisement (poll tax, literacy tests, all white primary, one party politics), segregation (separate but equal doctrine from Plessy V Ferguson), and racial violence combine to remove blacks from participation in white society and politics.

An activist court that did much to expand the rights of the individual and the power of the federal government to enforce civil rights legislation, it changed the way Americans today perceive their relationship with their government. Not since then has the Supreme Court wielded so much power in shaping American culture, and Earl Warren is remembered as one of the most influential Supreme Court Justices in American history. Arizona, all accused persons must be informed of their rights when they are arrested. You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to have an attorney present during questioning. If you cannot afford an attorney, one will be appointed for you. One of the many areas in which the Warren court expanded civil rights was in guaranteeing due process of the law to all citizens. Prior to handing down such rulings as Gideon v. Wainwright and Miranda v. Arizona , indigent or minority accused persons often found themselves with no legal counsel to defend them in court and in many cases were uninformed regarding their rights. Wainwright ruled that states must provide attorneys at state expense for accused persons unable to procure their own legal defense. Arizona expanded the rights of the accused by mandating that they must be informed of their rights upon arrest. Both of these decisions came at a time when it had become clear that minorities were often left at a disadvantage in the legal system due to ignorance and poverty. These rulings were intended to right these wrongs. Rulings such as Baker v. Carr , Wesberry v. Sanders , and Reynolds v. Sims attacked political inequities. These three cases established the idea that the legislative districts of both the House of Representatives and both houses for state legislatures must be of equal and proportional size regarding population. The Reynolds ruling read, "Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests. The effect of these rulings was to trickle down to impact even city districting as well. Freedom of Religion Another individual right expanded by the Supreme Court during this period was that of freedom of religion. In , Sherbert v. Verner dealt with a woman who had been fired from her long-standing job because it conflicted with her religious beliefs. She was denied unemployment compensation as a result and took her case to court. The court ruled that under the First Amendment, if an employee can prove their religious conflicts, they are protected by law in cases of discrimination. Religious freedom was also put to the test in the case of free exercise in the public schools. Vitale ruled that it was illegal for the states to require official school prayers to be recited by the students. Abington Township School District v. Schempp declared that school-sponsored Bible readings were unconstitutional. Overall, the Warren court did much to expand the civil liberties Americans enjoy and exercise today, in part because no court had ever pushed the issues of racial discrimination, the rights of the accused, or religious freedom so forcefully to the forefront of American society.

Chapter 9 : Human Rights: A Marxian perspective â€“ Philosophers for Change

An activist court that did much to expand the rights of the individual and the power of the federal government to enforce civil rights legislation, it changed the way Americans today perceive their relationship with their government.