

**DEPARTMENT OF POLITICAL SCIENCE
AND
INTERNATIONAL RELATIONS**

**POSC 105
MORE ON DEMOCRACY AND CAPACITY**

I. THIS MORNING:

- A. The complexity of defining rights
- B. Film: "Search and Seizure"
- C. Reading: see below

II. REMARKS ABOUT DEMOCRACY:

- A. Notes from the last class
- B. Criteria for evaluating democracy
 - 1. Extent of freedoms.
 - 2. Level of enlightened understanding
 - 3. Power to hold leaders accountable
- C. The meaning of the term, "democracy," is not self-evident.
 - 1. What the founders meant by the concept (and by rights) is not clear.
 - 2. What they intended may not even be relevant.
- D. How a society defines democracy partly (if not mainly) determines the distribution of tangible and intangible goods and values. Bluntly stated, the prevailing conception of democracy partially determines who wins and who loses and who gets the things that are worth having such as power, wealth, prestige, and legitimacy.
- E. Democracy is a "contentious" form of government: not everyone really believes in it, no matter how much lip service they give to the term.
 - 1. Hypothesis: Elites (those in positions of power) have mixed feelings about democracy: they accept its abstract principles but are reluctant to put it in practice.
 - 2. Many elites do not trust the people to govern themselves.
 - 3. Other elites do not want the people to participate in major decision making.
 - 4. When push comes to shove, many prefer less to more democracy.
- F. Proposition: democracy does not have a necessary connection with any particular type of economic system.
 - 1. Capitalism and democracy are not synonymous; a socialist society could be democratic.
 - 2. Whether or not this ever occurs is a matter of debate.

III. REMARKS ABOUT RIGHTS:

- A. Hypothesis: the idea of a "right" implies disagreement over its meaning and range of application.

1. After all, discussion of a right implies a claim one sort or another on someone or some agency.
- B. Rights are never permanent but must be won again and again and again.
- C. Hypothesis: dissidents, criminals, malcontents, and the like serve the interests of ordinary law-abiding citizens. Why? Because they constantly force the political system to think about and reaffirm its commitment to freedoms. Hence, the "dregs" of society--the people we sometimes detest the most--are the very ones who do the most to help preserve liberty. After all, they force public authorities to play by the rules and these rules make us all safer.
 1. Think about some of the people in the film. Although they may be unsavory, their behavior forces society to think about how far rights should be extended.
- D. Two issues arise when discussing political liberties.
 1. First how do we reconcile individual rights with majority preferences?
 - a. For example, does a majority have the proper or just power to outlaw certain kinds of speech (e.g., pornography)?
 2. Second, since statements about rights are inherently and inevitably ambiguous, how do we interpret them?
 - a. The film provides a good example.
 - b. So too does the Supreme Court case *Whren vs U. S.* discussed on page 121.
 - c. Or, what about flag burning (see pages 130 to 133)? Is desecration of the American flag protected by the free speech clause?
- E. Another point: people in different social and economic strata are better able to assert and take advantage of rights than are those in different locations.
- F. These are the issues raised by the documentary, "Search and Seizure."
 1. *Keep main terms in mind.
 - a. What is a "writ of general assistance?" What is the "exclusionary rule?" What were the colonial merchants trying to hide?
- G. Equally important, what do you think about the exclusionary rule? Does it hinder the police too much?

IV. NEXT TIME:

- A. The Constitution
- B. Reading:
 1. Patterson of *We the People*, Chapter 4.
 - a. Read for general understanding
 - b. But pay close the section "Rights of Persons Accused of Crimes," pages 117 to 123.
 - c. Know:
 - * *Mapp vs Ohio*
 - * *Gideon vs Wainwright*
 - * *Whren vs U. S.*

- * The exclusionary rule
 - * Selective incorporation
 - * Probable cause
 - d. There is an interesting two page section (pages 127 to 128) that discusses the limits of the judicial system's power to protect rights and liberties.
- 2. You should also read the Constitutional "Bill of Rights" (Amendments I to X) and in particular the Fourth Amendment

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