

**DEPARTMENT OF POLITICAL SCIENCE
AND
INTERNATIONAL RELATIONS
Posc 150**

DEMOCRACY AS ACCOUNTABILITY

- I. CONTENTS:
 - A. Republican democracy
 - B. Comments on political rights.
 - C. Film "Search and Seizure"

- II. REPUBLICAN DEMOCRACY:
 - A. ***Republican** form of government:
 - 1. A republic is a form of government in which supreme power rests in citizens and is exercised by representatives chosen by and accountable to them.
 - B. *The essence of democracy:
 - 1. Citizens must be able to hold leaders or representatives responsible for their action.
 - 2. That is, citizens must have the ability to judge policies acceptable or unacceptable and to set guidelines for future action.
 - C. Accountability assumes a number of conditions that we'll spend the rest of the semester examining.
 - 1. *A major gauge of democracy is how well it facilitates citizen's holding representatives accountable.

- III. GENERAL PROPOSITIONS ABOUT RIGHTS:
 - A. It's interesting to note that foreigners often remark about America's commitment to rights; its willingness to protect them even at the expense of the common good.
 - 1. ○Our political culture makes "the individual" the center of the political universe.
 - i. That is, we consider it very important to protect individual rights.
 - ii. Frequently individual rights trump the "rights of the community," a term a lot of people don't understand or accept.
 - 2. ✓Example: opposition to gun control, seat belt and helmet laws, land use.
 - B. *Rights inevitably conflict with at least one of democracy's main assumptions, majority rule.
 - 1. That is, if the majority has the right to enact laws in the common interest, can it thus restrict individual liberties? Our political thought and culture has never given a definitive answer to this question.
 - i. Such a question may be inherently unanswerable.
 - C. *The very idea of a "right" implies disagreement over its meaning and range of application.
 - 1. A right implies a claim one sort or another on someone or some agency.

2. If it were universally accepted as valid, such a right would hardly be the subject of debate and hence not even thought of as a right.
- D. *Each generation must redefine and reestablish rights for itself:
 1. Rights are never permanent but must be won again and again and again.
 2. ○One of the ultimate interpreters of rights is the Supreme Court. Its membership turns over periodically and consequently so does its theory or theories of jurisprudence.
- E. In a strange sort of way 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.
 - i. Want to know more? Read Anthony Lewis, *Gideon's Trumpet*.
 2. ✓Suppose, for example, the campus police searched your room for drugs while you were on vacation, even though they had no specific reason to suspect you as a dealer or user. What would you think? Chances are that you'd feel your rights had been violated. And probably most courts would agree with you. But when I went to college the campus cops routinely search my room when I was away. They searched it, that is, without my permission or knowledge and "without probable cause." (That is, they had no *specific* reason to believe I possessed anything illegal.) Now they probably couldn't do that. Why? I think partly because criminals and malcontents have forced society and hence police departments to rethink and respect Fourth Amendment rights.
 3. ✓Other examples come quickly to mind: flag burners, pornographers, performance artists,...People who don't fit in the "mainstream" may actually be doing us (inadvertently) a service because they keep rights constantly on the public agenda.
 4. The legislation called the USA Patriot Act raises many of these issues.
 - i. Rights of alleged (not convicted terrorists!) may be abridged.
 - ii. The Act's critics wonder who will be next unless those currently affected by it can successfully challenge this law.
 - iii. See the suggested readings attached to the notes for the last class.
- F. *People in different social and economic strata are better able to assert and take advantage of rights than are those in different locations.
 1. This fact underlies a lot of criticism of the death penalty.
 - i. Rich people who can afford competent attorneys usually escape the electric chair.
 - ii. See Tucker's *May God Have Mercy*.

IV. FILM - "SEARCH AND SEIZURE":

- A. Some of these are the issues raised by the documentary, "Search and Seizure."
- B. The Fourth Amendment: For a hypertext version go to:

<http://www.law.cornell.edu/constitution/constitution.text.html>

- C. Keep main terms in mind.
- i. What were the colonial merchants trying to hide?
 - ii. What is a “writ of general assistance?”
 - iii. Selective incorporation.
 - iv. Probable cause
 - v. ✱What is the “exclusionary rule?”
 - vi. ✱“The constable blundered”
 - vii. Note the important court decisions, especially Mapp v. Ohio.
 - 1) www.fedworld.gov/supcourt/index.htm
- D. What do you think about the exclusionary rule? Does it hinder the police too much? Should it be kept as it is or limited?
1. More on the rule: “In Defense of the EXCLUSIONARY RULE,”
http://www.findarticles.com/m1272/2650_128/55149339/p1/article.jhtml
- V. NEXT TIME:
- A. Reading:
1. Highly recommended: FindLaw, “U.S. Constitution: Fourth Amendment,” at <http://caselaw.lp.findlaw.com/data/constitution/amendment04/> includes lots of history and explanation.
- B. Required *for the next topic*:
1. Print and the articles on the Cyber Reserve Room page under “Essays on ‘Who Governs.’”
 2. Print and read “Example of Pluralist Politics,” also in the Cyber Reserve Room.
- C. Start Elizabeth Drew, *The Corruption of American Politics*, as indicated in the syllabus.
1. See below