Brown v Board of Education

Allan Bakke, a thirty-five-year-old white man, had twice applied for admission to the University of California Medical School at Davis. He was rejected both times. The school reserved sixteen places in each entering class of one hundred for "qualified" minorities, as part of the university's affirmative action program, in an effort to redress longstanding, unfair minority exclusions from the medical profession. Bakke's qualifications (college GPA and test scores) exceeded those of any of the minority students admitted in the two years Bakke's applications were rejected. Bakke contended, first in the California courts, then in the Supreme Court, that he was excluded from admission solely on the basis of race.

The Court ruled in an 8-1 decision in favor of Bakke. Four of the justices contended that any racial quota system supported by government violated the Civil Rights Act of 1964. Justice Lewis F. Powell, Jr., agreed, casting the deciding vote ordering the medical school to admit Bakke. However, in his opinion, Powell argued that the rigid use of racial quotas as employed at the school violated the Fourteenth Amendment. The remaining four justices held that the use of race as a criterion in admissions decisions in higher education was constitutionally permissible. Powell joined that opinion as well, contending that the use of race was permissible as one of several admission criteria. So, the Court managed to minimize white opposition to the goal of equality (by finding for Bakke) while extending gains for racial minorities through affirmative action.

1. Identify the constitutional clause that is common to both Regents of California vs. Bakke and Brown vs. Board of Education.
2. Based on the constitutional clause identified in part A, explain why the facts of Brown v. Board of Education led to a different interpretation on racial discrimination than Regents of California v. Bakke.
3. Describe how would you, as a university admissions officer, would determine equality based on the decision of Regents of California v. Bakke in your institution.

U.S. v Lopez

"In 1996, California voters passed the Compassionate Use Act which authorized the use of medicinal marijuana.  Drugs which were prescribed by doctors were seized from homes by the Drug Enforcement Agency (DEA). California's law also was in conflict with the Controlled Substances Act.  Medicinal marijuana users argued that Congress had exceeded its powers under the Commerce clause and the Controlled Substances Act.

In the Gonzales case, the court held in a 6-3 decision that Congress did not exceed its powers under Article 1 Section 8 of the Constitution.  The court ruled that Congress could ban marijuana production because it was part of a national marijuana market. "

1. Identify the constitutional clause that is common to both Lopez v US and Gonzales v Raich.

B. Based on the Constitutional Clause identified in part A, explain why the facts of US v Lopez led to a different holding than the Gonzales case?

C. Describe an action that members of the public who disagree with the holding in Gonzales could take to limit its impact?

McDonald v. Chicago

"The city of Highland Park, Illinois passed a series of ordinances banning AK 47's, AR 15's and other large capacity magazines that can accept more than 10 rounds.  The ordinance followed the school shooting at Sandy Hook Elementary School in Newtown, Conn. Many residents of Highland Park supported the ordinances in light of the tragedy. Arie Friedman, who lives in Highland Park Illinois, owned a banned rifle and several large capacity magazines before the ordinance took affect. The city gave anyone who legally possessed an assault weapons or large capacity magazines 60 days to move these outside the city limits, disable them, or surrender them for destruction. Mr. Friedman, brought suit against the city, stating that it was a violation of his protected rights.

The United States 7th Circuit Court of Appeals upheld the ban on assault weapons and high capacity magazines citing that these weapons did not exist at the writing of the Constitution and therefore were not constitutionally protected. The Supreme Court denied Mr. Friedman a writ of certorari and remanded the case to the decision of the lower court. "    "The city of Highland Park, Illinois passed a series of ordinances banning AK 47's, AR 15's and other large capacity magazines that can accept more than 10 rounds. The ordinance followed the school shooting at Sandy Hook Elementary School in Newtown, Conn. Many residents of Highland Park supported the ordinances in light of the tragedy. Arie Friedman, who lives in Highland Park Illinois, owned a banned rifle and several large capacity magazines before the ordinance took affect. The city gave anyone who legally possessed an assault weapons or large capacity magazines 60 days to move these outside the city limits, disable them, or surrender them for destruction. Mr. Friedman, brought suit against the city, stating that it was a violation of his protected rights.

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A. Identify the constitutional clause that is common to both Macdonald v. Chicago(2010) and Friedmand v. City of Highland Park, Illinois(2015).

B. Identify and explain the Supreme Court's interpretation of the constitutional clause above was different in the two cases.

1. Describe how the salience of the issue and the ideology of the Court may have influenced the Court's differing responses to the petitioners.

Tinker v. Des Moines

"In Hazelwwood School District v. Kuhlmeier, the students enrolled in the Journalism II class at Hazelwood East High School were responsible for writing and editing the school's paper The Spectrum. Two of the articles submitted for publication in the final edition of the paper contained stories on divorce and teenage pregnancy.  The school principal felt that the subjects of these two articles were inappropriate. As a result, he prohibited these articles from being published in the paper. The student journalists then brought suit, alleging that their First Amendment rights to freedom of speech had been violated.

The U.S. Supreme Court held that the principal's actions did not violate the students' free speech rights. The Court noted that the paper was sponsored by the school and, as such, the school had a legitimate interest in preventing the publication of articles that it deemed inappropriate and that might appear to have the imprimatur of the school. Specifically, the Court noted that the paper was not intended as a public forum in which everyone could share views; rather, it was a limited forum for journalism students to write articles pursuant to the requirements of their Journalism II class, and subject to appropriate editing by the school. "

1. Identify the Amendment that controls the restriction on speech in the school environment in both the Tinker and Hazelwood cases.
2. Based on the Amendment identified above, explain why the facts of Tinker led to a different holding than the holding in Hazelwood.
3. Describe an action that students  who disagree with the holding in Hazelwood could take to limit its impact.

Citizens United v. Federal Election Commission

"In 2002, Congress passed the Bipartisan Campaign Reform Act (BCRA), which established two sets of limits to campaign contributions. The base limit placed restrictions on how much money a contributor—defined broadly as individuals, partnerships, and other organizations—may give to specified categories of recipients. The aggregate limit restricted how much money an individual may donate in a two-year election cycle. The limits were periodically calibrated to factor in inflation.  Shaun McCutcheon is an Alabama resident who is eligible to vote. In the 2011-2012 election cycle, he donated to the Republican National Committee, other Republican committees, as well as individual candidates. He wished to donate more in amounts that would be permissible under the base limit but would violate the aggregate limit. McCutcheon and the other plaintiffs sued the Federal Election Commission, arguing that the aggregate limit violated the First Amendment by failing to serve a ""cognizable government interest"" and being prohibitively low. The district court held that the aggregate limit served government interests by preventing corruption or the appearance of corruption and was set at a reasonable limit.

The plurality held that the aggregate limit did little to address the concerns that the Bipartisan Campaign Reform Act was meant to address and at the same time limited participation in the democratic process. Because the aggregate limit fails to meet the stated objective of preventing corruption, it does not survive the ""rigorous"" standard of review laid out by previous precedent dealing with campaign contributions from a First Amendment perspective and is therefore unconstitutional. The aggregate limit also prevents a donor from contributing beyond a specific amount to more than a certain number of candidates, which may force him to choose which interests he can seek to advance in a given election. The plurality held that the collective interest in combating corruption can only be pursued as long as it does not unnecessarily curtail an individual's freedom of speech, and in this case the aggregate limit is not sufficiently closely tailored to accomplish this goal. The plurality also noted that there are many other means by which the government may fight election corruption without setting an aggregate limit on campaign contributions."

1. Identify the constitutional clause that is common to both McCutcheon v. Federal Election Commission (2014) and Citizens United v. Federal Election Commission (2010).

1. Based on the constitutional clause identified in Part A, explain why the facts of Citizens United v. Federal Election Commission (2010) led to a similar holding to the holding in McCutcheon v. Federal Election Commission (2014).
2. Describe an action that members of the public who disagree with the holding in McCutcheon v. Federal Election Commission could take to limit its impact.

Schenck v. United States

"Brandenburg, a leader in the Ku Klux Klan, made a speech at a Klan rally and was later convicted under an Ohio criminal syndicalism law. The law made illegal advocating ""crime, sabotage, violence, or unlawful methods of terrorism as a means of accomplishing industrial or political reform,"" as well as assembling ""with any society, group, or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism.""

The Supreme Court held that the Ohio law violated Brandenburg's right to free speech. The Court used a two-pronged test to evaluate speech acts: (1) speech can be prohibited if it is ""directed at inciting or producing imminent lawless action"" and (2) it is ""likely to incite or produce such action."" Speech that supports law-breaking or violence in general is protected by the First Amendment unless it directly encourages people to take an unlawful action immediately. The act made illegal the advocacy and teaching of doctrines while ignoring whether or not that advocacy and teaching would actually incite imminent lawless action. The failure to make this distinction rendered the law overly broad and in violation of the Constitution.

A- Identify the constitutional principle that is common to both Brandenburg v Ohio (1969) and Schenk v U.S. (1919)

B-    Based upon the constitutional principle identified in part A, explain why the facts of Schenk v US led to a different holding than the holding in Brandenburg v Ohio. "

C-    Describe an action that the Ohio legislature could take in response to the Brandenburg v Ohio decision. "

Roe v. Wade

"Dr. Harold Glucksberg, along with four other physicians, three terminally ill patients who have since died, and a nonprofit organization that counsels individuals contemplating physician assisted-suicide brought this suit challenging the state of Washington's ban on physician assisted-suicide. The State of Washington has historically criminalized the promotion of suicide attempts by those who ""knowingly cause or aid another person to attempt suicide."" Glucksberg alleged that Washington's ban was unconstitutional.

The Supreme Court made a unanimous decision in this case by overruling the district court's ruling that the statute violated the liberty interest protected by the Constitution. The Court held that the right to assisted suicide is not a fundamental liberty interest protected by the Constitution since its practice has been, and continues to be, offensive to our national traditions and practices. "

1. Identify the constitutional clause that is common to both Washington v. Glucksberg (1997) and Roe v. Wade (1973).
2. Based on the constitutional clause identified in part A, explain why the facts of Roe v. Wade led to a different holding than the holding in Washington v. Glucksberg.
3. Describe an action that the legislative branch could take to reverse the decision in the Washington v. Glucksberg case.

McCulloch v. Maryland

In 2006, Congress passed the Adam Walsh Child Protection and Safety Act in an effort to keep dangerous sexual predators off the street following the completion of their federal prison sentences.  A provision in this law gives the Department of Justice the authority to detain a mentally ill, sexually dangerous federal prisoner beyond the date the prisoner would be otherwise released. There is an extensive process to determine which federal prisoner should be a part of the civil commitment program following the end of their sentence.

Four men, who were confined two years passed the end of their federal prison sentences challenged this law.  They claimed that their constitutional rights were violated based on the grounds of double jeopardy, the ex post facto clause, and the sixth and eighth amendments.

In the ensuing case, United States v. Comstock, The Supreme Court ruled in a 7-2 ruling that Congress had the authority to enact the Adam Walsh Child Protection and Safety Act provision that allowed for the continued confinement of prisoners that the Department of Justice found “sexually dangerous”.  The Court recognized that Congress had good reason to pass the statute as it has the power to protect nearby communities from the danger prisoners may pose.

1. Identify the constitutional clause that is common to both United States v. Comstock (2010) and McCulloch v. Maryland (1819).
2. Based on the constitutional clause identified in part A, explain why the facts of McCulloch vs. Maryland led to a similar holding as that of United States v. Comstock.
3. Create an argument that members of the public who disagree with the Court’s ruling on United States v. Comstock could make and defend the argument using at least one constitutional principle

New York Times Co v. United States

"On October 18, 1975, the police found that six members of the Kellie family had been murdered. The crime attracted widespread media coverage and both the prosecutor and defense attorney sought an order restraining coverage of the murders, to deter the potential prejudicial effect on a future jury. The Nebraska state trial judge entered an order restraining members of the press from publishing or broadcasting accounts of confessions made by the accused to the police. The judge felt that this measure was necessary to guarantee a fair trial to the accused. The Petitioner, the Nebraska Press Association, sought review to determine whether the Respondent’s order abrogated its freedom of the press.

In a unanimous decision, the Supreme Court of the United States struck down the trial judge’s order, allowing publication of the defendant’s statements by the press. While the court acknowledged that the murder case would indeed generate ""intense and pervasive pretrial publicity,"" it however ruled that the practical problems associated with limiting the press from reporting details of the case would not have served the accused's rights. Chief Justice Burger reasoned that ""a whole community cannot be restrained from discussing a subject intimately affecting life within it."""

1. Identify the type of restriction on the freedom of the press that is common to both New York Times Co. v. United States (1971) and Nebraska Press Association v. Stuart (1976).
2. Based on the restriction identified in Part A, explain why the facts of New York Times Co. v. United States led to a similar holding than the holding in Nebraska Press Association v. Stuart.
3. Describe how the holding in Nebraska Press Association v. Stuart could potentially impact the rights of the accused in future criminal cases?

Engel v. Vitale

"At every home varsity football game at Santa Fe High School and prior to the game, a student council chaplain delivered a prayer over the public address system.  Two families, one Catholic and one Mormon challenged the practice of the prayer prior to the football games. The district court ordered modification to the policy to permit a nonsectarian and proselytizing prayer.

The District Court held that the school district's policy of student-led and or student-initiated prayer before football games violated the Constitution.  The court, in a 6-3 decision, held that public speech authorized by public policy on government property and sponsored by school related events is not properly characterized as private."

1. Identify the Constitutional clause that is common to both Santa Fe Independent School v Doe and Engel v Vitale.
2. Based on the Constitutional clause identified in part A, explain why the facts of Santa Fe Independent School v Doe led to a similar holding in Engel v Vitale.
3. Describe an action that members of the public who disagree with the holding in Santa Fe Independent v Doe could take to limit its impact.

Gideon v. Wainwright

"Sila Luis was indicted by a federal grand jury for her alleged role in a Medicare fraud scheme that involved giving kickbacks to patients who enrolled with her home healthcare companies. At this time, federal law allows the government to file a pretrial motion to restrain the assets of defendants accused of particular types of fraud, including those not directly related to the fraud. Luis objected to the motion and argued that she needed the frozen assets to pay for her criminal defense lawyer.  The district court granted the motion, and the U.S. Court of Appeals for the Eleventh Circuit affirmed.

In a 5-3 plurality decision, the Supreme Court held that he pretrial restraint of assets untainted by the alleged crime that are needed to retain counsel violates the Constitution. The plurality opinion held that the fundamental nature of the right in question prohibits the government from undermining the defendant’s ability to be represented by counsel of his choice that he can afford, and the assets in question should remain firmly in the possession of the defendant. In the dissenting opinion, Justice Elena Kagan argued that if the government demonstrates probable cause to believe they will recover the assets, defendants cannot use those assets to hire an attorney of their choice."

1. Identify the constitutional liberty that is common to both Gideon v. Wainwright (1963) and Luis v. United States (2016).
2. Based on the liberty you identified in A, explain why the facts of Luis v. United States led to a different holding than the holding in Gideon v. Wainwright.
3. Explain why citizens may find the decision of the Robert's Court in Luis v. US is ironic.

Wisconsin v. Yoder

"The Church of Lukumi Babalu Aye practiced the Afro-Caribbean-based religion of Santeria. Santeria used animal sacrifice as a form of worship in which an animal's carotid arteries would be cut and, except during healing and death rights, the animal would be eaten. Shortly after the announcement of the establishment of a Santeria church in Hialeah, Florida, the city council adopted several ordinances addressing religious sacrifice. The ordinances prohibited possession of animals for sacrifice or slaughter, with specific exemptions for state-licensed activities.

The Church of Lukumi Babalu Aye challenged the ordinances in the U.S. District Court alleging a violation of their rights to practice their religion. The lower court found with the City and upheld the ordinances. The Church proceeded to petition for certiorari and was granted cert. The Court unanimously sided with the Church stating that the ordinance  effectively applies “only against conduct motivated by religious beliefs""."

1. Identify the constitutional clause that was common to both the Church of Lukumi Babalu Aye, Inc. v. City of Hialeah and Wisconsin v. Yoder.
2. Describe two ways in which the decision made in Wisconsin v. Yoder influenced the decision given in the Church of Lukumi Babalu Aye.
3. Give an example of how these rulings have limited the ability of the legislative branch to enact legislation concerning religious activity.

Marbury v Madison

"A grand jury returned indictments against seven of President Richard Nixon's closest aides in the Watergate affair. The special prosecutor appointed by Nixon and the defendants sought audio tapes of conversations recorded by Nixon in the Oval Office. Nixon asserted that he was immune from the subpoena claiming ""executive privilege,"" which is the right to withhold information from other government branches to preserve confidential communications within the executive branch or to secure the national interest. Decided together with Nixon v. United States.

The Court ruled unanimously in favor of the United States.  The Court held that neither the doctrine of separation of powers, nor the generalized need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified, presidential privilege. The Court granted that there was a limited executive privilege in areas of military or diplomatic affairs, but gave preference to ""the fundamental demands of due process of law in the fair administration of justice."" Therefore, the president must obey the subpoena and produce the tapes and documents. Nixon resigned shortly after the release of the tapes."

1. Identify the common constitutional principle in both U.S. v. Nixon and Marbury v. Madison.
2. Based on the constitutional principle identified in part A, explain why the facts of U.S. vs. Nixon led to a different holding than the holding in Marbury v. Madison.
3. Explain how you can exert the power of your branch (Congress or Executive) within the limitations of the Constitution.

Baker v. Carr

"Evenwel v. Abbot (2016) In 2010, the Texas legislature created a redistricting plan based on new census data. This plan was challenged and subsequently redrawn by a federal appellate court and adopted into law by the legislature.  The plaintiffs, Evenwell and Abbot, argued that the new map violated the Fourteenth Amendment because the map provided roughly equal districts based on total population, but these districts were unequal in population when only the population of registered voters was taken into account.

In a unanimous decision, the Supreme Court ruled that the Texas redistrict plan was constitutional and did not violate the ""one man, one vote"" test.  Arguing constitutional wording on apportionment of House seats based on total population as well as past practice by the states, the Court found that redistricting based solely on total population was constitutional. "

1. Identify the constitutional clause that is common to both Evenwel v. Abbott (2016) and Baker v. Carr  (1962).
2. Based on the constitutional clause identified in part A, explain why the facts of Baker v. Carr led to a different holding than the holding in Evenwel v. Abbott.
3. Describe an action that the Texas legislature could have taken in response to the Evenwel decision.