

U.S. Government, Book 1
Lesson 15
Due Process: Civil Law

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Lesson 15

Due Process: Civil Law

Objective

- To understand how the concept of due process applies to property rights

Notes to the Teacher

Civil, or noncriminal cases, involve disputes between two individuals, two groups, or between an individual or group and the government. Such cases often involve disputes over property. Property, from a legal viewpoint, refers to ownership and use of land, buildings, or other tangible goods and to intangible property, such as employment, welfare entitlement, or unemployment compensation. Under the Constitution, both state and federal courts are obligated to apply principles of due process in civil proceedings. Cases proceed through either the state or federal court system, depending upon whether state or federal issues are at stake.

Passed during Reconstruction, the Thirteenth Amendment abolished all vestiges of slavery, while the purpose of the Fourteenth Amendment was to solve all problems not solved by the Thirteenth. Many believed the aim of the Reconstruction amendments was to raise African Americans to full legal and social equality and to transform the political landscape of the nation. There was a need to define equal protection under the law as it applied to newly free slaves.

The interpretation of the Fourteenth Amendment is based on intent. Prior to the 1960s, conservatives said that the authors of the amendment did not intend to outlaw segregation; therefore, the amendment could be used as the basis for further legal challenges in an attempt to broaden the rights of some. However, liberals interpreted the amendment to support the idea that the authors did intend to outlaw segregation and that the amendment could be extended beyond its Reconstruction-era intent. Suffragists attempted to remove the words *men* and *male* from the proposed amendment prior to its passage, but failed. Susan B. Anthony attempted to use the Fourteenth Amendment as a defense in her trial for attempting to vote in Rochester, New York, in 1872. Today, the Fourteenth

Amendment is used to guarantee the rights of citizenship and equal protection under the law to all Americans.

In this lesson, students are introduced to the basics of property rights and due process. Students define terms associated with civil due process, examine the rights guaranteed in the Fifth and Fourteenth Amendments, and analyze a series of situations associated with civil due process. Students write and share a paragraph explaining the civil protections given to citizens under the Fifth and Fourteenth Amendments.

Procedure

1. Distribute **Handout 29**, and have students complete it for homework. Review students' responses to part A.

Suggested Responses:

civil law—*noncriminal proceedings*

plaintiff—*party initiating legal action*

defendant—*party being accused or sued*

federal district court—*lowest court in the federal system*

federal appellate court—*federal court that hears appeals from federal district courts*

state appellate court—*a court that hears appeals from lower state or local courts*

state supreme court—*highest state court*

eminent domain—*right of the government to purchase private property at a fair price for a public purpose*

class action suit—*a lawsuit initiated by a group of persons*

reverse a decision—*action of an appellate court to overturn the decision of a lower court*

statutory law—*a law made by federal, state, or local legislative bodies*

constitutional law—*a law resulting from the contents of the Constitution*

2. Explain that the Fifth and Fourteenth Amendments to the Constitution guarantee individuals the right to property, which

may not be taken away from them without due process. Stress that the civil process in the United States is governed by many of the same rules as the criminal process, but the burden of proof in a civil trial is more lenient than that in a criminal trial. A plaintiff in a civil case does not have to prove that the defendant is guilty beyond a reasonable doubt. Review students' responses to **Handout 29**, part B.

Suggested Responses:

Amendment V

capital; crime; indictment; grand jury; cases; militia; war; public danger; subject; twice; jeopardy; himself; life; liberty; property; due process; law; private; public; compensation

Amendment XIV

born; naturalized; jurisdiction; citizens; state; reside; enforce; law; abridge; immunities; deprive; life; liberty; property; due process; law; deny; jurisdiction; equal protection

3. Divide the class into eight groups, and distribute **Handout 30**. Assign one situation to each group. Instruct students that each group is to read the scenario and determine the plaintiff(s), defendant(s), the issue in the case, a probable decision, and a reason for that decision. Each group is to prepare a five-minute presentation on its case. Have students evaluate the constitutionality of the decisions reached by each group.

Suggested Responses:

Situation A

Plaintiff—*group of farmers*

Defendant—*U.S. Department of Transportation*

Issue—*eminent domain*

Probable decision—*against the farmers*

Reason—*Eminent domain places the rights of the many over the rights of the few.*

Situation B

Plaintiff—*citizen group*

Defendant—*automobile company*

Issue—*class action suit over warranty protection on cars*

Probable decision—*some sort of compensation to individuals claiming damages*

Reason—*Government will likely support plaintiffs' claim that warranty protection should provide meaningful coverage.*

Situation C

Plaintiff—*man whose benefits were cut off*

Defendant—*welfare department official*

Issue—*what constitutes property with guarantee of due process*

Probable decision—*in favor of plaintiff*

Reason—*The Supreme Court in recent years has extended the meaning of "property" to include such items as welfare benefits and unemployment compensation.*

Situation D

Plaintiff—*shipping clerk*

Defendant—*employer at brush company*

Issue—*meaning of property and extent to which due process applies in this situation*

Probable decision—*for the plaintiff*

Reason—*Recent Supreme Court decisions have defined employment as a type of property.*

Situation E

Plaintiff—*city butchers*

Defendant—*city slaughterhouse*

Issue—*the rights protecting citizens under the Fourteenth Amendment*

Probable decision—*It would seem that the butchers have the better claim because of the equal protection clause, but the ruling favored the slaughterhouse company and the state of Louisiana.*

Reason—*The butchers believed they were deprived of the privileges and immunities guaranteed to citizens under the Fourteenth Amendment. The Court ruled that the amendment gave no federal protection to the rights associated with state citizenship. Federal protection was distinct from state law.*

Situation F

Plaintiff—*the Lochner brothers*

Defendant—*State of New York*

Issue—*the constitutionality of the due process and privileges and immunities clauses in the Fourteenth Amendment*

Probable decision—*for the plaintiff*

Reason—*The Court applied the idea of liberty of contract, which was considered a fundamental right, and struck down the maximum hours law.*

Situation G

Plaintiff—*West Coast Hotel Company*

Defendant—*State of Washington*

Issue—*minimum wage imposed in the state of Washington*

Probable decision—*in favor of the state of Washington*

Reason—*A prior case ruling stated that the setting of minimum wages for women and minors violated the Fifth amendment's due process clause. The Supreme Court supported the Washington law and forced businesses and corporations to abide by state law.*

Situation H

Plaintiff—*Mrs. Jabrowski and others*

Defendant—*City of Detroit*

Issue—*the right of the city to impose eminent domain for the purpose of development*

Probable decision—*in favor of the city*

Reason—*The Court ruled that the individual had to yield his or her property for the general comfort and protection of the community. The principle of democracy known as majority rule forced the people in the neighborhood, who were in the minority, to give way to the will and benefit of the majority.*

4. Have students write a paragraph on civil law and due process. The paragraph should explain the civil protections given to citizens under the Fifth and Fourteenth Amendments to the Constitution. Have students include all the following terms: *civil law,*

tangible property, intangible property, due process of law, plaintiff, defendant, eminent domain, and class action suit. Select students to share their paragraphs.

Suggested Response:

Civil law concerns noncriminal proceedings, such as those involving conflict over property. Property may be either real, tangible property or intangible benefits, such as welfare entitlement, unemployment compensation, or a job. In recent years, individual plaintiffs and groups bringing class action suits against defendants, involving the extension of the meaning of "property," have often found the Supreme Court supportive of their cause. However, the government retains its constitutional right to purchase private property for a public purpose through its power of eminent domain.

Enrichment/Extension

Have students monitor cases before the U.S. Supreme Court that deal with civil due process and at a later date report on how the Court's ruling has changed the interpretation of the Fifth or Fourteenth Amendment.

The Basics of Property Rights and Civil Due Process

Part A.

Use your textbook or a dictionary to find the meaning of each of the following terms. Write the definitions on a separate sheet of paper.

civil law	federal appellate court	class action suit
plaintiff	state appellate court	reverse a decision
defendant	state supreme court	statutory law
federal district court	eminent domain	constitutional law

Part B.

Read the Fifth and Fourteenth Amendments in your textbook, and fill in the blanks below. Then summarize each amendment in one sentence.

Amendment 5

No person shall be held to answer for a _____, or otherwise infamous _____, unless on a presentment or _____ of a _____, except in _____ arising in the land or naval forces, or in the _____, when in actual service in time of _____ or _____; nor shall any person be _____ for the same offence to be _____ put in _____ of life or limb, nor shall be compelled in any criminal case to be a witness against _____, nor deprived of _____, _____, or _____, without _____ of _____; nor shall _____ property be taken for _____ use without just _____.

Summary: _____

Amendment 14

All persons _____ or _____ in the United States and subject to the _____ thereof, are _____ of the United States and of the _____ wherein they _____. No state shall make or _____ any _____ which shall _____ the privileges or _____ of citizens of the United States, nor shall any state _____ any person of _____, _____, or _____, without _____ of _____; nor _____ to any person within its _____ the _____ of the laws.

Summary: _____

Due Process of Law: Property Rights

Each group has been assigned one of the following situations. Read the situation carefully, and apply the questions that follow to your assigned case. Refer to the Fifth and Fourteenth Amendments. Prepare a five-minute presentation about your case. Listen as each case is presented. Evaluate all the situations, including the one in which you participate.

- Who is the plaintiff?
- Who is the defendant?
- What is the main issue in the case?
- What was the probable decision?
- Why did the court rule as it did?

Situation A

A small group of citizens from Pine Corners organized to prevent the U.S. Department of Transportation from constructing an interstate highway through part of their township. Two farmers will be forced to sell their property to the government. They contend this will ruin their careers as farmers. One objects on the grounds that his family has lived on that property for three generations. The citizens sue the Department of Transportation and claim the highway should be rerouted. The government claims the right of eminent domain.

Situation B

A group of citizens from various states has decided to sue an automobile company. The citizens complain that the company built cars with defective engines that had to be replaced shortly after the cars' warranties expired. The citizens advertised in newspapers and found dozens of other persons wishing to participate in the suit. This action reduced the number of cases to be litigated.

Situation C

A man challenged a welfare official's decision to cut off his welfare benefits for allegedly refusing to accept counseling and rehabilitation for drug addiction. The man argued that he did not use drugs and decided to take his case to court. The public official argued in court that welfare entitlements are not property and, therefore, due process did not apply in this case.

Situation D

A shipping clerk at a brush company is dismissed from his job after a short probationary period. He believes that he lost his job because of his physical handicap—one of his legs is shorter than the other. He sues his employer in court, charging that he has been denied property without due process of law.

Situation E

It is 1869, and the Louisiana state legislature has granted a twenty-five-year monopoly to a company to sell meat to a small exclusive group in the city of New Orleans. Other butchers in the city claim that the monopoly allows the company to sell meat at the expense of all other butchers. They claim that they cannot practice their trade, exercise their livelihood, support their families, or provide meat for a large percentage of the city's population. The city of New Orleans, the state of Louisiana, and the City Slaughter House Company

argue that the statute does not block butchers from their trade but merely charges a fee of butchers to use their slaughterhouse.

Situation F

It is 1905, and the Lochner brothers own a New York bakery. Baking requires long hours, seven days a week, in order to produce homemade buns, breads, and other baked goods. Sometimes employees at the Lochners' bakery work twelve to fourteen hours a day, and often as much as sixty to seventy hours a week. The state of New York has passed a law limiting work hours to a ten-hour work day and a sixty-hour week. The brothers were arrested, charged, and convicted under the new law. They want to appeal. The state argues that while workers desire good wages and long hours, they also need reasonable working conditions.

Situation G

It is 1937, during the Great Depression. The owner of the West Coast Hotel Company in the state of Washington knows that the best way of making money from the business is to keep overhead low. His largest expense is employee salaries and benefits, so he tries to keep wages low. The state of Washington has passed a minimum wage law that affects most of his employees, the majority of whom are women or minors. He contested the law as unconstitutional in a local court. He has appealed to the Washington Supreme Court.

Situation H

It is 1980, and Mrs. Jabrowski, an elderly woman, has lived in the same Detroit neighborhood for seventy-five years. Her mother and father also lived there. General Motors and the City of Detroit want to raze her neighborhood in order to build a new factory. The city says that it wants to promote new businesses and increase tax income. City officials defend the action by stating that the new plant would employ over six thousand people and that eminent domain allowed the city to seize the properties. The residents say they cannot place a value on their memories. They argue that eminent domain does not apply in this case, because a private company would benefit from the seizures, rather than the city government, which would benefit only indirectly.