Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Period: \_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_

**AP U.S. GOVERNMENT AND POLITICS**

**Unit 3 - Judicial Branch, Civil Rights and Civil Liberties – Review Packet (T. McKibben)**

**Interactions Among Branches of Government**

Because power is widely distributed and checks prevent one branch from usurping powers from the others, institutional actors are in the position where they must both compete and cooperate in order to govern. The three key institutions of the federal government are Congress, the presidency, and the courts. The bureaucracy, which implements policy, is seen by some as an extension of the executive branch and by others as, in effect, a fourth branch of government because of the discretion it can exercise in carrying out policy directives. The Constitution grants specific powers to Congress, the president, and the courts, and in addition, each branch exercises informal powers (developed through political practice, tradition, and legislation). Because checks and balances are designed to prevent one branch from becoming too powerful, Congress and the president, for example, will sometimes cooperate and sometimes compete in governance

The federal judiciary, including the Supreme Court, established under Article III, is designed to be an independent branch of government. The Court’s most far-reaching power, judicial review, was justified in Marbury v. Madison (1803), where the Court declared that it had the constitutional authority to overturn acts of Congress, state laws, or executive action deemed to be unconstitutional. Thus, judicial review serves as an important check on other branches of government. Appointed for life, justices are somewhat insulated from public opinion. It is not surprising that over the years the Court has handed down decisions that have been unpopular and controversial. Congress and the president may influence the Court through the appointment process, by refusing to implement a Court decision, or by passing legislation that changes the Court’s jurisdiction.

**Civil Liberties and Civil Rights**

Through the U.S. Constitution, but primarily through the Bill of Rights and the Fourteenth Amendment, citizens and groups have attempted to restrict national and state governments from unduly infringing upon individual rights essential to ordered liberty and from denying equal protection under the law. Likewise, it has sometimes been argued that these legal protections have been used to block reforms and restrict freedoms of others in the name of social order.

The Constitution, but especially the Bill of Rights and the Fourteenth Amendment, are used to assert the rights of citizens and protect groups from discrimination. As such, the government must respect the dignity of the person and assure equal treatment, with its power constrained in the process of protecting individual freedoms. The Fourteenth Amendment includes two clauses that affirm and protect civil rights and liberties—the due process clause and the equal protection clause. The courts must balance the desire for social order with the protection of individual rights and freedoms when considering due process and equal protection challenges.

In a process known as selective incorporation, the Supreme Court has used the power of judicial review to interpret the due process clause in such a way as to prevent states from unduly restricting fundamental freedoms. The Court has been called upon to interpret protections for freedom of political expression and religious exercise, the right to bear arms, the right of privacy, and the rights necessary to ensure that those accused of crimes receive a fair trial.

The equal protection clause provides that states may not deprive persons of equal protection under the law. African Americans, Hispanics, women, LGBTQ (lesbian, gay, bisexual, transgender, queer) people, and other groups have used the clause to lead social movements on behalf of their concerns. The Supreme Court has rendered several landmark decisions that expand civil rights, and Congress has passed legislation that expands equality. At times Congress and the courts are asked to determine the legitimacy of equal protection claims by various groups, as well as weigh the majority’s concerns that they will be harmed by the changes sought.

**Essential Questions:**

* How do the branches of the national government compete and cooperate in order to govern?
* To what extent have changes in the powers of each branch affected how responsive and accountable the national government is in the 21st century?
* To what extent do the U.S. Constitution and its amendments protect against undue government infringement on essential liberties and from invidious discrimination?
* How have U.S. Supreme Court rulings defined civil liberties and civil rights?

**Big Idea #1:** The design of the judicial branch protects the Supreme Court’s independence as a branch of government, and the emergence and use of judicial review remains a powerful judicial practice.

**Checks and Balances and Judicial Review**

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| --- | --- | --- |
|  | Describe the Main Ideas | Explain the Importance of the Main Ideas |
| Article III of the Constitution |  |  |
| Judicial Review |  |  |
| Federalist No. 78 |  |  |

**Checks and Balances and Judicial Review**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Court Case** | **Year** | **Brief description of the case and outcome** | | **Constitutional principles** |
| *Marbury v Madison* |  |  | |  |
| Explain the importance of judicial review in U.S. government. | | |  | |
| Explain how the exercise of judicial review in conjunction with life tenure of judges can lead to debate about the legitimacy of the Supreme Court’s power. | | |  | |

**Judicial decision making: Importance of** precedents and ***stare decisis***

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Precedents** | ***stare decisis*** | **Landmark Case** |
| Define |  |  |  |
| Explain |  |  |  |
| Provide an example |  |  |  |

**Ideology and SCOTUS**

|  |  |
| --- | --- |
| Ideological changes in the composition of the Supreme Court, due to presidential appointments, have led to the Court’s establishing new or rejecting existing precedents.  Describe the consequences of each | Establishment of new precedents:  Rejecting of new precedents: |
| Controversial or unpopular Supreme Court decisions can lead to challenges of the Court’s legitimacy and power which Congress and the president can address only through future appointments, legislation changing the Court’s jurisdiction, or refusing to implement decisions.  Describe consequences each. | Appointments:  Legislation:  Refusal to implement: |

**Ideology and SCOTUS**

|  |  |  |
| --- | --- | --- |
|  | **Loose Constructionist** | **Strict Constructionist** |
| Define and Explain |  |  |

**Politics and the Supreme Courts Power**

|  |  |  |
| --- | --- | --- |
|  | **Judicial Activism** | **Judicial Restraint** |
| Define and Explain |  |  |

**Checks and Balances: How other branches can limit the Supreme Courts power.**

|  |  |  |
| --- | --- | --- |
| **Restrictions on Supreme Court** | **Description** | **Example** |
| Constitutional Amendments |  |  |
| Judicial appointments and confirmations |  |  |
| President evading/ignoring SCOTUS decisions |  |  |
| States evading/ignoring SCOTUS decisions |  |  |
| Congressional Acts |  |  |

**Big Idea #2:** Provisions of the U.S. Constitution’s Bill of Rights are continually being interpreted to balance the power of government and the civil liberties of individuals.

**U.S. Constitution: Civil Liberties and Civil Rights**

|  |  |  |
| --- | --- | --- |
|  | **Civil Liberties** | **Civil Rights** |
| Define, describe and explain |  |  |

**Special Note:**

* The U.S. Constitution includes a Bill of Rights specifically designed to protect individual liberties and rights.
* Civil rights are guaranteed to all citizens under the due process and equal protection clauses of the U.S. Constitution, as well as acts of Congress.

**U.S. Constitution: Bill of Rights**

|  |  |
| --- | --- |
| **Bill of Rights** | **List the freedoms contained in each amendment** |
| 1st Amendment |  |
| 2ND Amendment |  |
| 3RD Amendment |  |
| 4TH Amendment |  |
| 5TH Amendment |  |
| 6TH Amendment |  |
| 7TH Amendment |  |
| 8TH Amendment |  |
| 9TH Amendment |  |
| 10TH Amendment |  |

**Special Note:** The application of the Bill of Rights is continuously interpreted by the courts.

**First Amendment**

|  |  |  |
| --- | --- | --- |
|  | Establishment Clause | Free Exercise Clause |
| Define, describe and explain |  |  |

**Special Note:** The interpretation and application of the First Amendment’s establishment and free exercise clauses reflect an ongoing debate over balancing majoritarian religions practice and free exercise.

**Religion and SCOTUS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Court Case** | **Year** | **Brief description of the case and outcome** | **Constitutional principles** |
| ***Engel v. Vitale*** |  |  |  |
| ***Wisconsin v. Yoder*** |  |  |  |

**Speech and Press and SCOTUS**

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| --- | --- | --- | --- |
| **Court Case** | **Year** | **Brief description of the case and outcome** | **Constitutional principles** |
| *Tinker v. Des Moines* |  |  |  |
| *Schenck v. U.S.* |  |  |  |
| *New York Times Co. v. U.S.* |  |  |  |

**Special Note:** The Supreme Court has on occasion ruled in favor of states’ power to restrict individual liberty; for example, when speech can be shown to increase the danger to public safety.

**Limiting Speech**

|  |  |
| --- | --- |
| Efforts to balance social order and individual freedom are reflected in interpretations of the First Amendment that limit speech.  Explain how 1st Amendment speech can be limited? |  |

**Eighth Amendment and Cruel and Unusual Punishment**

|  |  |  |  |
| --- | --- | --- | --- |
| **Court Case** | **Year** | **Brief description of the case and outcome** | **Constitutional principles** |
| *Gregg v. Georgia* |  |  |  |

**Big Idea #3**: Protections of the Bill of Rights have been selectively incorporated by way of the Fourteenth Amendment’s due process clause to prevent state infringement of basic liberties.

**14th Amendment**

|  |  |
| --- | --- |
| **Term** | **Definition and Explanation** |
| Selective Incorporation |  |
| Due Process |  |
| Equal Protection |  |

**Selective Incorporation**

|  |  |  |  |
| --- | --- | --- | --- |
| **Court Case** | **Year** | **Brief description of the case and outcome** | **Constitutional principles** |
| *McDonald v. Chicago* |  |  |  |

**Special Note:** The Supreme Court’s decisions on the Second Amendment rest upon its constitutional interpretation of individual liberty.

**Special Note:** The debate about the Second and Fourth Amendments involves concerns about public safety and whether or not the government regulation of firearms or collection of digital metadata promotes or interferes with public safety and individual rights.

**Due Process and Infringing Upon Individual Rights**

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| --- | --- | --- | --- |
| **Congressional Act** | **Year** | **Brief description of the Act** | **Constitutional principles** |
| Patriot Act |  |  |  |
| USA Freedoms Act |  |  |  |

**Special Note:** The Supreme Court has on occasion ruled in favor of states’ power to restrict individual liberty; for example, when speech can be shown to increase the danger to public safety.

**Special Note:** Pretrial rights of the accused and the prohibition of unreasonable searches and seizures are intended to ensure that citizen liberties are not eclipsed by the need for social order and security, including:

* + Protection against warrantless searches of cell phone data under the Fourth Amendment
  + Limitations placed on bulk collection of telecommunication metadata

**Special Note:** The debate about the Second and Fourth Amendments involves concerns about public safety and whether or not the government regulation of firearms or collection of digital metadata promotes or interferes with public safety and individual rights.

**Rights of the Accused**

|  |  |  |  |
| --- | --- | --- | --- |
| **Court Case** | **Year** | **Brief description of the case and outcome** | **Constitutional principles** |
| *Miranda v. Arizona* |  |  |  |
| *Gideon v. Wainwright* |  |  |  |

**Special Note:** The Miranda rule involves the interpretation and application of accused persons’ due process rights as protected by the Fifth and Sixth Amendments, yet the Supreme Court has sanctioned a public safety exception that allows unwarned interrogation to stand as direct evidence in court.

**Special Note:** The due process clause has been applied to guarantee the right to an attorney and protection from unreasonable searches and seizures, as represented by:

**Special Note:** Pretrial rights of the accused and the prohibition of unreasonable searches and seizures are intended to ensure that citizen liberties are not eclipsed by the need for social order and security, including:

* + The right to legal counsel, a speedy and public trial, and an impartial jury

**Privacy and SCOTUS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Term** | **Definition** | **Explanation** | **Constitutional principles** |
| Exclusionary Rule |  |  |  |

**Privacy and SCOTUS**

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| --- | --- | --- | --- | --- |
| Explain where and how the Right to Privacy is interpreted in Constitution.  Be sure to include both locations in the Constitution with explanations. | | | #1:  #2: | |
| **Court Case** | **Year** | **Brief description of the case and outcome** | | **Constitutional principles** |
| *Roe v. Wade* |  |  | |  |

**Big Idea #4:** The Fourteenth Amendment’s equal protection clause as well as other constitutional provisions have often been used to support the advancement of equality.

**Leadership, Equal Protection, and Motivation of Social Movements**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Causes of Social Movement | Outcomes of the Social Movement | **Constitutional principles** |
| King’s “Letter from a Birmingham Jail” |  |  |  |
| National Organization of Women (NOW) |  |  |  |
| Pro-Life Movement |  |  |  |
| LGBTQ rights |  |  |  |

**Big Idea #5:** Public policy promoting civil rights is influenced by citizen–state interactions and constitutional interpretation over time.

**Social Movements and Governments Response**

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| --- | --- | --- | --- |
| **Case/ Act** | **Year** | **Brief description of the case/act and outcome** | **Constitutional principles** |
| *Plessy v. Ferguson* |  |  |  |
| Jim Crow Laws |  |  |  |
| *Brown v. Board of Education* |  |  |  |
| Civil Rights Act of 1964 |  |  |  |
| Title IX of the Education Amendments Act of 1972 |  |  |  |
| The Voting Rights Act of 1965 |  |  |  |

**Special Note:** Decisions demonstrating that minority rights have been restricted at times and protected at other times include.

**Big Idea #6:** The Supreme Court’s interpretation of the U.S. Constitution is influenced by the composition of the Court and citizen–state interactions. At times, it has restricted minority rights and, at others, protected them.

**Restriction and Protection of Civil Rights of Minority Groups**

|  |  |  |  |
| --- | --- | --- | --- |
| Congressional Acts | Causes of Affirmative Action Acts | Outcome of Affirmative Action Acts | **Constitutional principles** |
| Affirmative Action Acts |  |  |  |

**Special Note:** The debate on affirmative action includes justices who insist that the Constitution is colorblind and those who maintain that it forbids only racial classifications designed to harm minorities, not help them.

**Special Note:** Decisions demonstrating that minority rights have been restricted at times and protected at other times include:

* The Supreme Court upholding the rights of the majority in cases that limit and prohibit majority-minority districting