

### Due Process and State Action

#### Terms:

Incorporation (Selective and Total)	State Action
Due Process (procedural)	Substantive Due Process
Fundamental Rights	Liberty Interests
Strict Scrutiny	Ordinary Scrutiny
Intermediate (Heightened) Scrutiny	

#### Assigned Cases:

*Barron v. Baltimore*; *Palko v. CT*; *Shelley v. Kramer*, *Burton v. Wilmington Parking Authority*; *Moose Lodge No. 107 v. Irvis*; *Yick Wo v. Hopkins*; *Civil Rights Cases*; *First Unitarian Church v. Salt Lake City*

#### Questions for Reading Assigned Cases:

*Barron v. Baltimore* and *Palko v. CT* concern the question of which rights apply against the federal government, and which rights apply against the states. How did this tradition evolve? How important is the incorporation of these other rights within the 14<sup>th</sup> Amendment? Do the arguments for incorporation convince you?

*Shelley v. Kramer*, *Burton v. Wilmington Parking Authority* and *Moose Lodge No. 107 v. Irvis* all concern the limits of the 14<sup>th</sup> Amendment. Why is it important that constitutional rights only apply against government? Should the 14<sup>th</sup> Amendment have extended to private persons?

*Yick Wo v. Hopkins* is an example of a law which seems to have a proper purpose, but which is misused. How should we think about such laws, due process, and the use of discretion by government officers?

*First Unitarian Church v. Salt Lake City* involves the question of whether a private entity can interfere with rights to free speech and association in an area in which it has granted public access, imbuing its property with a public quality. What characteristics of public access and public concern are most important in such arrangements?