

Discussion & Review Questions

1. Towards the beginning of the video, Professor Volokh contends that, "... The Framers established the Constitution to 'secure the blessings of liberty.' So, why doesn't that offer a clear answer to most of the Constitutional questions that face America today? Aren't lawmakers, who swear to uphold the Constitution, obliged by their oaths to vote for liberty? The problem is that liberty, like equality or justice, is a complicated idea that means different things to different people." What might some of the 'Constitutional questions that face America today' be? Why do you think it is the case that the concept of Liberty has different meanings to different people? Explain.
2. Later in the video, Professor Volokh points out that, "... everyone agrees that my liberty doesn't extend to violating your rights. But where do my rights stop and yours start? The Constitution itself doesn't tell us, since it lists pretty much just those rights that are protected against government intrusion like the free exercise of religion. People disagree about what rights should be protected from supposed intrusion by others- for instance, by employers, or by large businesses that might try to stifle competition." How would you answer the question of 'where do my rights stop and yours start?' Explain. In general, how do you think that Americans should go about answering this important question? Do you think that the government, i.e. the court system, should always answer this question for us? Why or why not?
3. Professor Volokh goes on to ask this very question: "How do we resolve all these hard questions about liberty? First, the Framers of the Constitution explicitly protected certain liberties, such as the freedom of speech and the right to keep and bear arms. Second, the Framers gave the courts a major role in defining the scope of those liberties. Third, the Framers set up the structures of government, such as separation of powers, that would help protect liberty, by making sure that no single branch of government could unduly restrict liberty. But then, fourth, they left the rest of the debate about liberty to the political process." What do you think that Professor Volokh means by the term 'political process?' Do you think that the Framers struck a decent balance between the government and the people, in terms of setting up mechanisms for determining how much freedom people have? Why or why not?
4. Towards the end of the video, Professor Volokh notes that, "The Framers also believed that most decisions in people's lives would not and should not be made by the government. They should be made by ordinary people: which job to take, which business to start, whom to associate with, how much to sell or buy things for, and innumerable other choices. The American experience has been that we are, on balance, richer, safer, and freer when those decisions are made outside the government by individuals pursuing their own dreams and their own self-interest." Do you agree with the Framers that most decisions in people's lives should not be made by any government agency? Why or why not? What specific factors do you think are directly responsible for the correlation between less government restriction and people being richer, safer, and freer? Explain.
5. At the end of the video, Professor Volokh concludes that, "...when it came to most tough questions about what restrictions on liberty are necessary, outside those walled off by the Constitution, the Framers left those questions to be decided by the democratic process. It's my view that the government should generally impose as few restrictions as possible,

whether on people's personal lives or their economic lives. Others disagree. ...Ultimately, in the system the Framers created, these disagreements would have to be resolved by we the people. To implement your vision of liberty, you have to win elections. And that's exactly what the Framers intended." Do you agree with Professor Volokh that the government should impose as few restrictions as possible? Why or why not? In terms of determining how much freedom Americans should have, why is the system set up by the Framers so brilliant and so important? Explain.

Extend the Learning:

Case Study Grace Community Church

INSTRUCTIONS: Read the articles "L.A. Threatens John MacArthur And His Church With Fines, Arrest For Holding Services," then answer the questions that follow.

1. Who has the City of Los Angeles issued a Cease and Desist order to, for what reason, and what punishments are threatened for non-compliance? What did California Governor Newsom order churches in 30 counties to do? How did Pastor MacArthur and his church respond to the order? What did the church say in its statement? What other punishment for non-compliance might Mayor Garcetti impose? Who is Charles LiMandri, and what did he have to say about the situation?
2. Which liberties are being infringed upon in this case? Considering that natural rights come from God and that legal rights come from only two places (the Bill of Rights and its amendments, and Juris Prudence- the body of all court rulings that judges have handed down), do you think that Governor Newsom or the City of Los Angeles has legitimate authority to shut down indoor worship at the church and to suspend the rights of the parishioners? Why or why not? Do you agree with Counselor LiMandri that churches are being discriminated against in this case? Why or why not? What other liberties could be taken away from the church members if they do not comply with the city's orders? Do you think that constituents of the church should have the right (and, thus, the liberty) to choose whether to attend services in person and to possibly expose themselves and others to the virus or not? Why or why not?
3. In what ways are rights and liberties inextricably linked? Why do you think that the Framers worked so hard to set up the government in such a way as to preserve as much liberty as possible? Explain. What might the correlations be between government getting bigger and the amount of liberties that people have getting smaller? Why do you think that freedom is so important to Americans? Explain.



L.A. Threatens John MacArthur And His Church With Fines, Arrest For Holding Services

August 5, 2020 By Elle Reynolds

The city of Los Angeles has issued a cease-and-desist letter to Grace Community Church and its pastor, John MacArthur, for continuing indoor worship services, threatening a daily \$1000 fine or MacArthur's arrest, according to a press release the church's legal counsel released on Wednesday.

"The state has absolutely no power to impose the restrictions it is demanding," said Jenna Ellis, one of the attorneys representing the church. "This is not about health and safety, it is about targeting churches."

On July 13, California Gov. Gavin Newsom ordered churches in 30 counties including Los Angeles County, where MacArthur's church is located, to stop all indoor services indefinitely. In

response, MacArthur and his church continued meeting and issued a public statement declaring their freedom to worship.

“It has never been the prerogative of civil government to order, modify, forbid, or mandate worship,” said MacArthur and the church’s elder board in their statement. “Freedom of worship is a command of God, not a privilege granted by the state.”

Now, the city of Los Angeles is punishing the church for its decision to continue gathering. In addition to fines and threats of arrest, Mayor Eric Garcetti has shown himself willing to use other tactics to keep residents from breaking shutdown orders. Back in April, he warned that he’d given the Department of Water and Power permission to shut off utilities for nonessential businesses that were operating in defiance of restrictions.

On its legal defense team, Grace Community Church is represented by Thomas More Society lawyer Charles LiMandri, as well as Jenna Ellis, who also serves as private legal counsel to President Trump and senior legal advisor to the Trump 2020 campaign.

“It is unconstitutional for Governor Newsom and the State of California to discriminate against churches by treating them less favorably than other organizations and activities that are not protected by the First Amendment,” LiMandri said.

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QUIZ

Defining Liberty

- 1. What did the Framers establish the Constitution to do?**
 - a. bring absolute equality to all citizens
 - b. secure the blessings of liberty
 - c. promote a large central government
 - d. provide economic security for the elite class

- 2. The Preamble says that the Constitution is set up to _____.**
 - a. abolish slavery outright
 - b. establish women's suffrage
 - c. provide for the common defense
 - d. enable the pursuit of tyranny

- 3. The Fourth Amendment bans all searches and seizures.**
 - a. True
 - b. False

- 4. The Framers believed that most decisions in people's lives should be made by _____.**
 - a. the federal government
 - b. religious leaders
 - c. state governments
 - d. ordinary people

- 5. Generally, when are Americans richer, safer, and freer?**
 - a. when the government is not making decisions for them
 - b. when they are pursuing their own dreams
 - c. when they are acting in their own self-interest
 - d. all of the above



QUIZ: ANSWER KEY

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