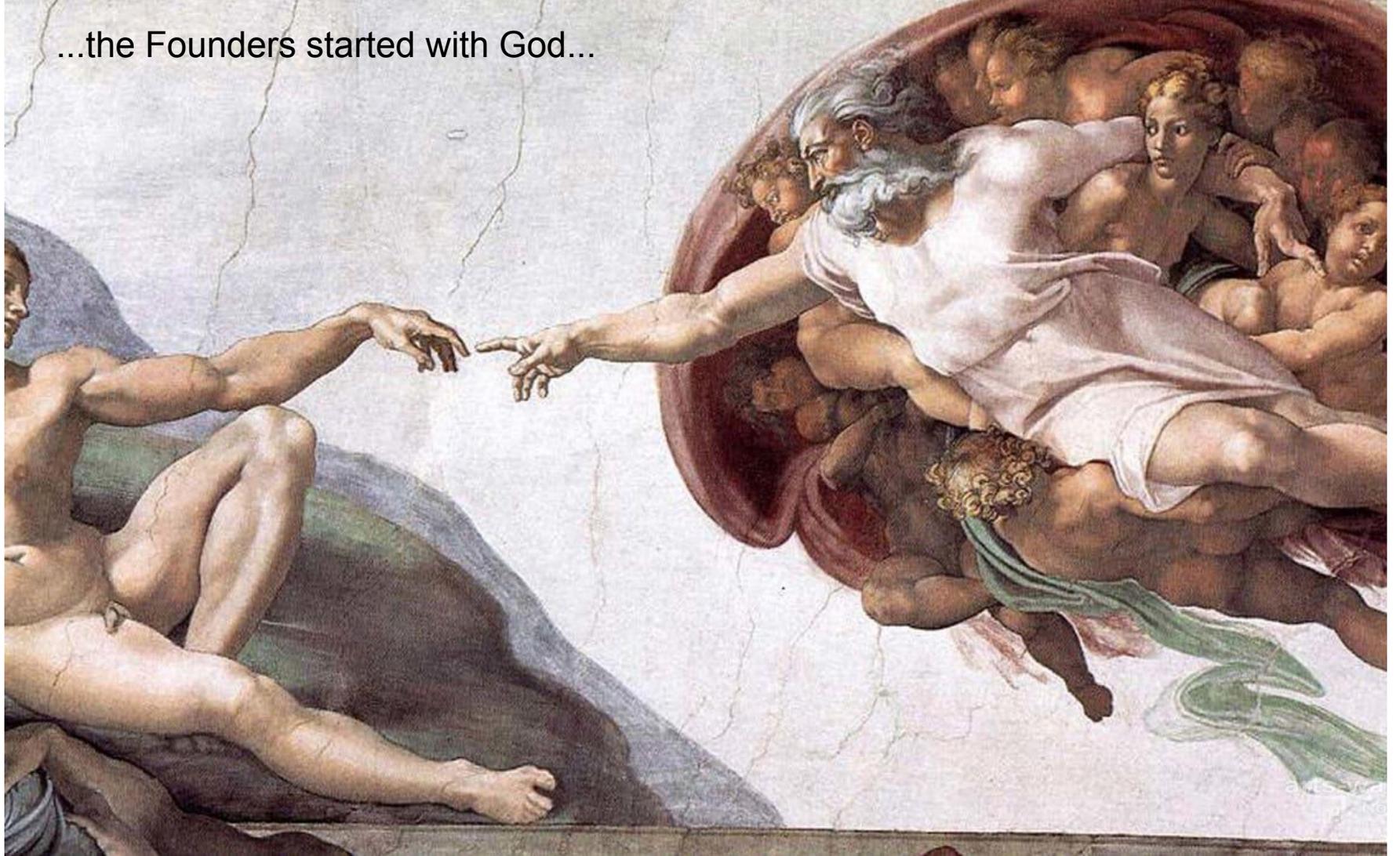


The Founders argued about including a list of rights in the Constitution. Decided against it. Instead amended the Constitution with the Bill of Rights.

It has been an evolving story ever since...

# The Age of Enlightenment

...the Founders started with God...



From Natural Rights...

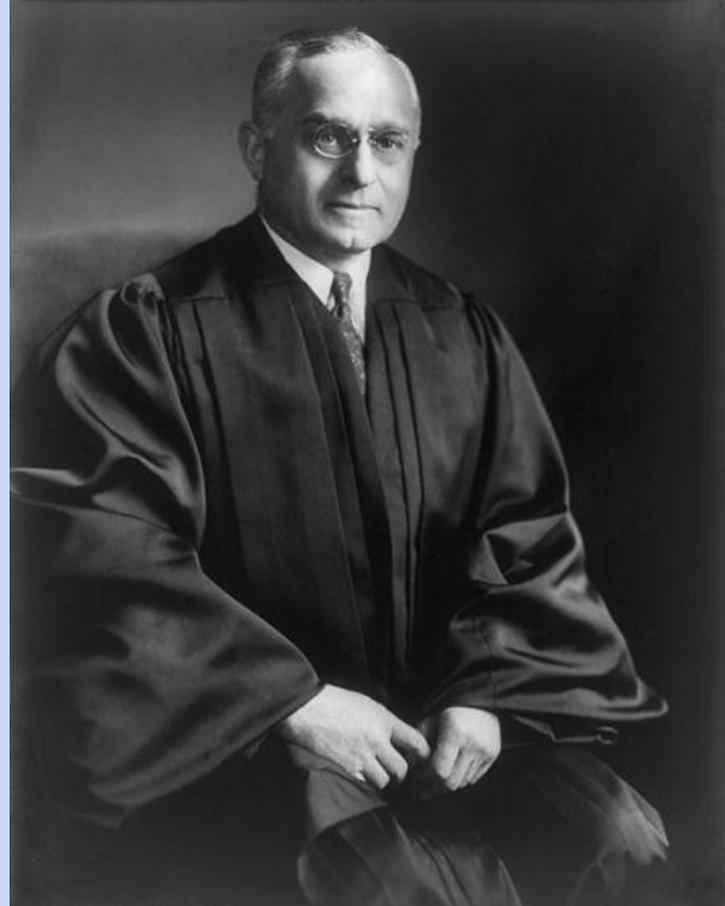
... to Civil Rights



Felix Frankfurter (Supreme Court Justice  
1939-1962):

[most of the basic conflicts in civil liberties  
represent]

**“ a clash of rights between values  
that we treasure and cherish, ”**



Civil liberties are:

freedoms guaranteed by the Constitution  
to protect us from tyranny.

Civil rights are:

the legal rights that protect individuals  
from discrimination.

## *The Bill of Rights*

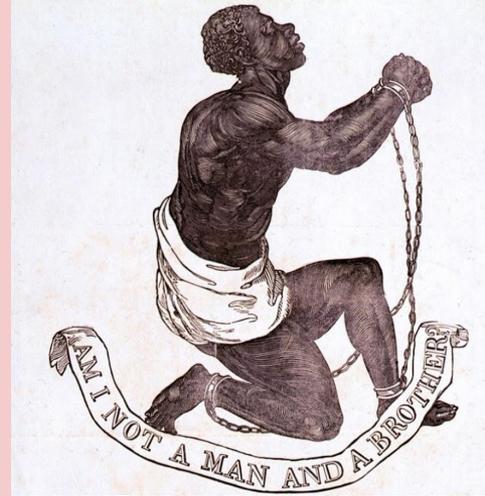
- ★ ***Freedom of religion, speech, press, right to peaceably assemble and petition government (1<sup>st</sup> Amendment)***
- ★ ***Right to bear arms (2<sup>nd</sup> Amendment)***
- ★ ***Soldiers cannot invade private homes (3<sup>rd</sup> Amendment)***
- ★ ***To be secure in their persons, houses, papers, and effects against unreasonable searches and seizures...no warrants without probable cause.... (4<sup>th</sup> Amendment)***

**(cont')**

- ★ ***Requirement*** for indictment by a grand jury....prohibition of double jeopardy....right to not testify against self...right to due process...no government seizure of property without just compensation (5<sup>th</sup> Amendment)
- ★ ***Right*** to speedy and public trial by impartial jury of local jurisdiction...to be informed of nature and cause of accusation...to be confronted with witnesses...to have assistance of counsel.... (6<sup>th</sup> Amendment)
- ★ ***...rights*** in civil cases to trial by jury (7<sup>th</sup> Amendment)
- ★ ***...no excessive*** bail or cruel and unusual punishment (8<sup>th</sup> Amendment)
- ★ ***Rights retained by the people*** (9<sup>th</sup> amendment)
- ★ ***Powers retained by the states or people*** (10<sup>th</sup> amendment)

# Abolition of Slavery & Entrance of “Civil Rights”

- ★ **Abolishes slavery & authorized Congress to enforce with legislation (13<sup>th</sup> Amendment)**
- ★ **Defines citizenship and prohibits states from abridging “privileges or immunities of citizens”.....prohibits states from depriving **any person** of life, liberty, or property without due process of law....prohibits denial to **any person** in jurisdiction **equal protection of the laws** (14<sup>th</sup> Amendment)**
- ★ **Right to vote shall not be denied or abridged on account of race, color, or previous condition of servitude (15<sup>th</sup> Amendment)**
- ★ **Right to vote shall not be denied or abridged on account of sex (19<sup>th</sup> Amendment)**
- ★ **Right to vote extended to age 18 and older (26<sup>th</sup> Amendment)**





**VOTES FOR WOMEN**  
**MEETING**  
demand the Enfranchisement  
of Women and to protest against  
the exclusion of Women from a  
share in Law-Making  
**ESSEX HALL, ESSEX ST. STRAND**  
**ON MONDAY, NOV. 25**  
**MRS. DESPARD**  
**MISS IRENE MILLER**  
**MRS. EDITH HOW MARTYN**  
**MISS NEILANS**

**VOTES**  
**FOR**  
**WOMEN**

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## What are Civil Rights?

- Rights to which almost all persons in US are entitled under “equal protection” of the law.
- Unequal protection = Discrimination based on personal characteristics (e.g., race, sex, age).

Unequal treatment that leads to hardship, disadvantage, damages.

- Enforceable by government in situations where government has “standing” (e.g., government standards or regulations apply—work places, schools, government services, police practice, public facing private sector services such as restaurants/retail).

## Who has Civil Rights?

- All persons, regardless of citizenship status in federal jurisdictions have civil rights.

Exceptions include: voting rights, jury duty.

- Civil rights laws and court decisions have expanded the definition of “persons” entitled to civil rights in response to unequal treatment.
- States cannot abrogate federally granted civil rights, though they can expand eligibility for some rights in some cases.



## Civil Rights Legislation (not all)

- A. Hate Crimes Prevention Act
- B. Conspiracy Against Rights
- C. Deprivation of Rights Under Color of Law
- D. Federally Protected Activities (unless citizenship is required under the law)
  - 1. Voting
  - 2. Federal benefits, services, programs, facilities or other under federal law or administered by US
  - 3. Federal employment
  - 4. Jury duty in federal or state court
  - 5. Any service receiving federal financial assistance.
  - 6. Students in public school or public college
  - 7. Services or programs administered by state and local governments
  - 8. Private or state/local employment and labor organizations
  - 9. Travel use of common carriers
  - 10. Patron of public accommodations

(Cont')

- E. Church Arson Prevention Act
- F. Freedom of Access to Clinic Entrances Act
- G. Criminal Interference with Right to Fair Housing
- H. Crime Control Act 1994: Pattern or Practice by law enforcement or other government authority to deprive a person of rights (excessive force, harassment, false arrest, coercive sexual conduct, unlawful stops, searches or arrests).
- I. Age Discrimination in Employment
- J. Americans with Disabilities Act.
- K. Indian Civil Rights Act (group vs individual rights/tribe vs member)

## Unsettled Areas of Civil Rights

### WHAT

- Police profiling is generally prohibited but continues to be prevalent in many places.
- Privacy—information and personal autonomy

# WHO

- Personhood appears to be unsettled at the beginning and end of life (e.g., varying abortion and end-of-life laws across states, changing medical criteria for “viable fetus”).
- Gender identity still appears to have some ambiguity regarding transgender rights.
- Religious groups are asserting rights to special exemptions from some laws, and in some states preference is shown for Christian religions in public contexts.
- Corporations have been treated as “persons”

## Civil Rights Enforcement

- Federal agencies have offices for civil rights enforcement, along with specific procedures for submitting complaints of civil rights violations.
- State agencies also have procedures for making complaints of civil rights violations, as do some local governments.
- Civil Rights Organizations (ACLU; NAACP, and others) screen complaints to identify cases they believe will set judicial precedents that expand enforcement of civil rights laws.
- Civil rights violations may be reviewed and action taken either administratively by an authorized agency of government, or through private litigation.
- The federal courts generally have the final say when decisions differ about similar cases across lower courts in different states.



## Some New Mexico Controversies

- **Unequal protection under the law for most Immigrants.**
- **Asian scientists targeted for espionage investigations.**
- **Judges and parents override legal protections for minors.**
- **Freedom of the press challenged (ACLU against Rio Arriba County).**
- **Privacy of sensitive personal information provided to state government (SB 75 was pocket vetoed by Governor)**

## The New Mexico Civil Rights Act of 2021

- Creates a private cause of action for civil right violations of the New Mexico Constitution in NM state courts.
- Allows for award of legal fees by the courts, at judge's discretion.
- Limits judgments to \$2 million per case.
- Liability for civil rights violations falls on employer, not individual employee responsible for violations. Government agency pays any judgements/settlements.
- **Eliminates “qualified immunity” as a defense. “Qualified Immunity” is a federal court concept that has historically limited liability of public employees charged with civil rights violations provided they acted within the scope of their employment.**

### CONCERNS:

- Considerable ambiguity as to which civil rights violations may be adjudicated in state court.
- No process for implementation by local governments specified in law.



# DISCUSSION

INDIVISIBLE



SPEAKING OUT SANELY