

Miranda v. Arizona (1966)

Vocabulary

self-incrimination Giving testimony or other evidence that involves oneself in a crime and makes one subject to being prosecuted; protected against by the Fifth Amendment.

(writ of) habeas corpus Court order requiring that a person in custody be brought before a court so a judge can determine the legality of keeping him or her in jail.

counsel Legal advice or representation.

Reviewing the Case

In March 1963, Ernesto Miranda, an unemployed drifter who was mentally disturbed, was arrested by police in Phoenix, Arizona. He was charged with the kidnapping and rape of a young woman and was taken to the police station. In the police line-up, the young woman identified him as the person who had kidnapped and raped her. After the identification, Miranda was questioned for two hours by two Phoenix police officers. Both police officers testified in court that they had not told Miranda at any time that he had the right to have an attorney present.

After the questioning, the officers left the interrogation room with a signed confession. Above the confession was a paragraph stating that the suspect understood his rights and that the confession was given voluntarily.

At Miranda's trial, the statement was entered as evidence against him. Police officers testified that Miranda had confessed orally to the crime before giving the written confession. The defendant's attorney tried to have the confession ruled inadmissible, but the judge allowed the jury to hear the statement. Miranda was found guilty of both kidnapping and rape and sentenced to 20 to 30 years on both charges. The sentences were to be served concurrently [at the same time].

Miranda appealed his conviction to the Arizona State Supreme Court. He asked to have his conviction overturned on the grounds that the confession was obtained in

violation of his Fifth Amendment protections against self-incrimination. The Fifth Amendment provides: "No person . . . shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property without due process of law."

The Arizona court, however, upheld the conviction. Miranda's attorney then filed for a writ of habeas corpus. The case went to the United States Supreme Court, which agreed to review the records of the case. The Court considered it along with three other cases, all dealing with using the statements of suspects who had been questioned in police custody without their lawyers present.

Two years earlier, in *Escobedo v. Illinois*, the Court had not allowed the admission of harmful evidence gained while interrogating Escobedo without his lawyer. Both the suspect and his lawyer had repeatedly asked that the attorney be present but had been refused until the questioning was finished. The Court had ruled that the evidence was obtained unlawfully, in violation of Escobedo's Sixth Amendment right to counsel. The decision had drawn criticism. Many, including four dissenting justices, had felt it would hamper police and prosecutors. The decision also left many law enforcement officers unsure of their obligations to advise suspects of their rights.

The issue before the Court: If police do not tell a suspect of his or her right to have an attorney present during questioning, can statements obtained be admitted into evidence or do they violate the Fifth Amendment right against self-incrimination?

The Court ruled 5-4 to overturn the decision of the Arizona court. It declared that Miranda's confession was unlawfully obtained and so was not admissible as trial evidence. The case was sent back to the Arizona court, which could retry Miranda but without the evidence from his confession.

Writing for the Court, Chief Justice Earl Warren spelled out some new limits:

The cases before us raise questions which go to the roots of our concepts of American criminal jurisprudence: the restraints society must observe consistent with the Federal Constitution in prosecuting individuals for crime. More specifically, we deal with the admissibility of statements obtained from an individual who is subjected to custodial police interrogation. . . .

The Court set up the following procedural safeguards:

1. Prior to questioning, a suspect must be advised of the right to remain silent.
2. Anything a suspect does say may be used against him or her in a court of law.
3. A suspect has a right to have an attorney present during questioning. The attorney may be of the suspect's choice or one retained by the government.
4. A suspect may waive the right to an attorney if desired, provided he or she does so voluntarily.
5. If a suspect wishes to have an attorney present, all questioning will cease until an attorney is present.
6. A suspect may at any time, even if the right to an attorney has been waived, refuse to answer any further questions without benefit of counsel.

Four justices dissented. Justice John Marshall Harlan wrote:

The new rules are not designed to guard against police brutality. . . . Those who use

third-degree tactics and deny them in court are equally able and destined to lie as skillfully about warnings and waivers. Rather, the thrust of the new rules is to negate [destroy] all pressure, to reinforce the nervous or ignorant suspect, and ultimately to discourage any confession at all. . . .

In addition to his fears over the damage the rules would cause in eliminating confessions, Justice Harlan feared that the Court was putting society at risk with what he felt was a "hazardous experimentation."

Not surprisingly, the *Miranda* decision was controversial. Police departments all over the country ordered their officers to carry cards with the first four items of the above list printed on them. The warnings on these cards, which came to be known as the "Miranda Warnings," are read to suspects as they are placed in custody and before any questioning is lawfully allowed. Since the decision, the Court has chipped away at the ruling without overturning it. It has generally upheld it, however, in cases in which people have been convicted.

After the decision, Ernesto Miranda was retried in Arizona and convicted without the confession. After Miranda was paroled, he traveled around the southwestern United States autographing "Miranda Warnings" cards for the local police until he was stabbed to death in a quarrel over a card game.

Name _____

Date _____

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Elements of the Case

Directions: Fill in the appropriate information for each of the following elements of this case.

1. State the issue before the Supreme Court in this case.

2. What facts of the case were presented to the Court?

3. What was the decision of the Court? What was the rationale behind it?

4. What was the effect of the decision?

House Judiciary Committee's Conclusion on Impeachment (1974)

In June 1972, five men were arrested while attempting to plant wiretaps in the offices of the Democratic National Committee (DNC) at the Watergate hotel in Washington, D.C. President Richard Nixon was facing reelection in November of that year. This event ultimately sparked an investigation into the activities of the Nixon administration. Nixon was reelected by a landslide, but by May 1973 the Senate Watergate committee had begun nationally televised hearings into the incident and a suspected cover-up orchestrated by the White House. The investigation revealed that a taping system installed in the White House had recorded all conversations in the White House offices. In a scandal that seemed to grow more complex every day, Nixon claimed executive privilege to resist turning the tapes over to investigators. However, the Supreme Court ruled against him in July 1974. When investigators finally listened to the tapes, they discovered a gap of eighteen and one-half minutes in the recordings. In late July, the House Judiciary Committee issued three articles of impeachment against Nixon, who would resign in August.

Note: The acronym "CRP" stands for the Committee for the Re-election of the President.

Conclusion

After the Committee on the Judiciary had debated whether or not it should recommend Article I to the House of Representatives, 27 of the 38 Members of the Committee found that the evidence before it could only lead to one conclusion; that Richard M. Nixon, using the powers of his high office, engaged, personally and through his subordinates and agents, in a course of conduct or plan designed to delay, impede, and obstruct the investigation of the unlawful entry, on June 17, 1972, into the headquarters of the Democratic National Committee; to cover up, conceal and protect those responsible; and to conceal the existence and scope of other unlawful covert activities.

This finding is the only one that can explain the President's involvement in a pattern of undisputed acts that occurred after the break-in and that cannot otherwise be rationally explained.

1. The President's decision on June 20, 1972, not to meet with his Attorney General, his chief of staff, his counsel, his campaign director, and his assistant John Ehrlichman, whom he had put in charge of the investigation--when the subject of their meeting was the Watergate matter.
2. The erasure of that portion of the recording of the President's conversation with Haldeman, on June 20, 1972, which dealt with Watergate--when the President stated that the tapes had been under his "sole and personal control."
3. The President's public denial on June 22, 1972, of the involvement of members of the Committee for the Re-election of the President or of the White House staff in the Watergate burglary, in spite of having discussed Watergate, on or before June 22, 1972, with Haldeman, Colson, and Mitchell--all persons aware of that involvement.
4. The President's directive to Haldeman on June 23, 1972, to have the CIA request the FBI to curtail its Watergate investigation.
5. The President's refusal, on July 6, 1972, to inquire and inform himself what Patrick Gray, Acting Director of the FBI, meant by his warning that some of the President's aides were "trying to mortally wound" him.

6. The President's discussion with Ehrlichman on July 8, 1972, of clemency for the Watergate burglars, more than two months before the return of any indictments.
7. The President's public statement on August 29, 1972, a statement later shown to be untrue, that an investigation by John Dean "indicates that no one in the White House staff, no one in the Administration, presently employed, was involved in this very bizarre incident."
8. The President's statement to Dean on September 15, 1972, the day that the Watergate indictments were returned without naming high CRP and White House officials, that Dean had handled his work skillfully, "putting your fingers in the dike every time that leaks have sprung here and there," and that "you just try to button it up as well as you can and hope for the best." . . .

In addition to this evidence, there was before the Committee the following evidence:

1. Beginning immediately after June 17, 1972, the involvement of each of the President's top aides and political associates, Haldeman, Mitchell, Ehrlichman, Colson, Dean, LaRue, Mardian, Magruder, in the Watergate coverup. . . .

Finally, there was before the committee a record of public statements by the President between June 22, 1972, and June 9, 1974, deliberately contrived to deceive the courts, the Department of Justice, the Congress and the American people.

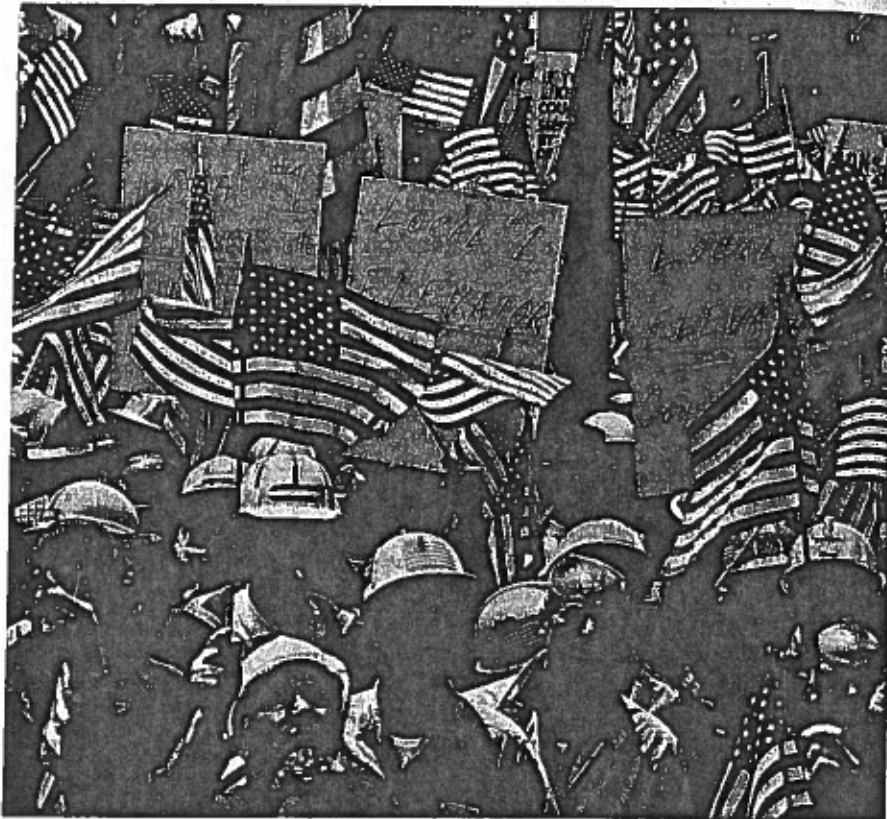
President Nixon's course of conduct following the Watergate break-in, as described in Article I, caused action not only by his subordinates but by the agencies of the United States, including the Department of Justice, the FBI, and the CIA. It required perjury, destruction of evidence, obstruction of justice, all crimes. But, most important, it required deliberate, contrived, and continuing deception of the American people.

President Nixon's actions resulted in manifest injury to the confidence of the nation and great prejudice to the cause of law and justice, and was subversive of constitutional government. His actions were contrary to his trust as President and unmindful of the solemn duties of his high office. It was this serious violation of Richard M. Nixon's constitutional obligations as President, and not the fact that violations of Federal criminal statutes occurred, that lies at the heart of Article I.

The Committee finds, based upon clear and convincing evidence, that this conduct, detailed in the foregoing pages of this report, constitutes "high crimes and misdemeanors" as that term is used in Article II, Section 4 of the Constitution. Therefore, the Committee recommends that the House of Representatives exercise its constitutional power to impeach Richard M. Nixon.

Document Analysis

1. According to this document, what were Nixon's most serious crimes?
2. On what grounds did the committee recommend impeachment of the president?
3. Many people believe that Nixon's actions tarnished not only his own reputation but the office of the president itself. Do you agree or disagree? Explain your answer.



27.5 The War Powers Act: A President's View

Richard M. Nixon

In the early 1970s, as public and congressional opposition to the war increased, President Nixon ordered secret bombings of Cambodia and Laos, bombed targets near Hanoi, and mined Haiphong Harbor. Reasserting its initiative, Congress began to look for secret foreign commitments President Nixon might have made, to scrutinize presidential foreign policy initiatives, and to cut foreign aid appropriations. In 1973, a War Powers Bill, designed to limit presidential power to commit American troops abroad, became law over President Nixon's veto. The bill required the President to inform Congress within forty-eight hours of any deployment of American military forces abroad and to withdraw them within sixty days unless Congress authorized an extension. In his veto message, excerpted here, Nixon argued that the bill usurped his constitutional powers and undercut the ability of the United States to "act as an effective influence for peace."

Answer

Consider:

1. *The major points on which Nixon differed with Congress;*
2. *How disclosures of the Watergate scandal might have related to passage of the War Powers Act;*
3. *Whether the War Powers Act has served to limit the activities of subsequent Presidents.*

I hereby return without my approval House Joint Resolution 542—the War Powers Resolution. While I am in accord with the desire of the Congress to assert its proper role in the conduct of our foreign affairs, the restrictions which this resolution would impose upon the authority of the President are both unconstitutional and dangerous to the best interests of our Nation. . . .

The Founding Fathers understood the impossibility of foreseeing every contingency that might arise in this complex area. They acknowledged the need for flexibility in responding to changing circumstances. They recognized that foreign policy decisions must be made through close cooperation between the two branches and not through rigidly codified procedures. . . .

House Joint Resolution 542 would attempt to take away, by a mere legislative act, authorities which the President has properly exercised under the Constitution for almost 200 years. One of its provisions would automatically cut off certain authorities after sixty days unless the Congress extended them. Another would allow the Congress to eliminate certain authorities merely by the passage of a concurrent resolution—an action which does not normally have the force of law, since it denies the President his constitutional role in approving legislation. . . .

While all the specific consequences of House Joint Resolution 542 cannot yet be predicted, it is clear that it would undercut the ability of the United States to act as an effective influence for peace. For example, the provision automatically cutting off certain authorities after 60 days unless they are extended by the Congress could work to prolong or intensify a crisis. Until the Congress suspended the deadline, there would be at least a chance of United States withdrawal and an adversary would be tempted therefore to postpone serious negotiations until the 60 days were up. Only after the Congress acted would there be a strong incentive for an adversary to negotiate. In addition, the very existence of a deadline could lead to an escalation of hostilities in order to achieve certain objectives before the 60 days expired.

SOURCE: Richard M. Nixon, "Veto of the War Powers Resolution. October 24, 1973," Public Papers of the Presidents of the United States: Richard Nixon, 1973 (Washington, D.C.: Government Printing Office, 1975), 893-95.

The measure would jeopardize our role as a force for peace in other ways as well. It would, for example, strike from the President's hand a wide range of important peace-keeping tools by eliminating his ability to exercise quiet diplomacy backed by subtle shifts in our military deployments. . . .

I am particularly disturbed by the fact that certain of the President's constitutional powers as Commander in Chief of the Armed Forces would terminate automatically under this resolution 60 days after they were invoked. No overt Congressional action would be required to cut off these powers—they would disappear automatically unless the Congress extended them. In effect, the Congress is here attempting to increase its policymaking role through a provision which requires it to take absolutely no action at all.

In my view, the proper way for the Congress to make known its will on such foreign policy questions is through a positive action, with full debate on the merits of the issue and with each member taking the responsibility of casting a yes or no vote after considering those merits. The authorization and appropriations process represents one of the ways in which such influence can be exercised.

27.6 Black Power

Stokely Carmichael and
Charles V. Hamilton

In the mid-1960s, militant young blacks began attacking the white power structure, claiming that the legal equality achieved under the Civil Rights Act of 1964 did not address the basic social and psychological problems of blacks in America. Stokely Carmichael, one of these militants, called for black unity in confronting white America and talked about "black power." The phrase *black power* carried different meanings for different blacks, and it led to the formation of such diverse groups as the Black Panthers (originally a self-help organization whose varied tactics sometimes included taking up arms) and Jesse Jackson's Operation PUSH (People United to Save Humanity). In 1968, Carmichael and sociologist Charles V. Hamilton published *Black Power: The Politics of Liberation in America*, in which they analyze the political, economic, and cultural impotence of blacks in America. In the excerpt reprinted here, Carmichael and Hamilton discuss why blacks in America have so little power.

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27-4 Betty Friedan, *The Problem That Has No Name*, 1963

A 1942 graduate of Smith College, Betty Friedan raised three children and worked as a freelance magazine writer after World War II. In 1957 she sent questionnaires to members of her Smith class, asking them to describe their lives since graduation. She combined their answers with more research and published *The Feminine Mystique* in 1963. The book's pathbreaking analysis of the unhappiness felt by many suburban middle-class housewives helped spark the modern feminist movement. In 1966 Friedan helped found the National Organization for Women. SOURCE: From *The Feminine Mystique* by Betty Friedan. Copyright © 1963, 1973, 1974, 1983 by Betty Friedan. Reprinted by permission of W.W. Norton & Company, Inc.

The suburban housewife—she was the dream image of the young American women and the envy, it was said, of women all over the world. The American housewife—freed by science and labor-saving appliances from the drudgery, the dangers of childbirth and the illnesses of her grandmother. She was healthy, beautiful, educated, concerned only about her husband, her children, her home. She had found true feminine fulfillment. As a housewife and mother, she was respected as a full and equal partner to man in his world. She was free to choose automobiles, clothes, appliances, supermarkets; she had everything that women ever dreamed of.

In the fifteen years after World War II, this mystique of feminine fulfillment became the cherished and self-perpetuating core of contemporary American culture. Millions of women lived their lives in the image of those pretty pictures of the American suburban housewife, kissing their husbands goodbye in front of the picture window, depositing their station-wagonsful of children at school, and smiling as they ran the new electric waxer over the spotless kitchen floor. They baked their own bread, sewed their own and their children's clothes, kept their new washing machines and dryers running all day. They changed the sheets on the beds twice a week instead of once, took the rug-hooking class in adult education, and pitied their poor frustrated mothers, who had dreamed of having a career. Their only dream was to be perfect wives and mothers; their highest ambition to have five children and a beautiful house, their only fight to get and keep their husbands. They had no thought for the unfeminine problems of the world outside the home; they wanted the men to make the major decisions. They gloried in their role as women, and wrote proudly on the census blank: "Occupation: housewife."

For over fifteen years, the words written for women, and the words women used when they talked to each other, while their husbands sat on the other side of the room and talked shop or politics or septic tanks, were about problems with their children, or how to keep their husbands happy, or improve their children's school, or cook chicken or make slipcovers. Nobody argued whether women were inferior or superior to men; they were simply different. Words like "emancipation" and "career" sounded strange and embarrassing; no one had used them for years. When a French-woman named Simone de Beauvoir wrote a book called *The Second Sex*, an American critic commented that she obviously "didn't know what life was all about," and besides, she was talking about French women. The "woman problem" in America no longer existed.

If a woman had a problem in the 1950s and 1960s, she knew that something must be wrong with her marriage, or with herself. Other women were satisfied with their lives, she thought. What kind of a woman was she if she did not feel this mysterious fulfillment waxing the kitchen floor? She was so ashamed to admit her dissatisfaction that she never knew how many other women shared it. If she tried to tell her husband, he didn't understand what she was talking about. She did not really understand it herself. For over fifteen years women in America found it harder to talk about this problem than about sex. Even the psychoanalysts had no name for it.

When a woman went to a psychiatrist for help, as many women did, she would say, "I'm so ashamed," or "I must be hopelessly neurotic." "I don't know what's wrong with women today," a suburban psychiatrist said uneasily. "I only know something is wrong because most of my patients happen to be women. And their problem isn't sexual." Most women with this problem did not go to see a psychoanalyst, however. "There's nothing wrong really," they kept telling themselves. "There isn't any problem."

But on an April morning in 1959, I heard a mother of four, having coffee with four other mothers in a suburban development fifteen miles from New York, say in a tone of quiet desperation, "the problem." And the others knew, without words, that she was not talking about a problem with her husband, or her children, or her home. Suddenly they realized they all shared the same problem, the problem that has no name. They began, hesitantly, to talk about it. Later, after they had picked up their children at nursery school and taken them home to nap, two of the women cried, in sheer relief, just to know they were not alone.

Gradually I came to realize that the problem that has no name was shared by countless women in America. As a magazine writer I often interviewed women about problems with their children, or their marriages, or their houses, or their communities. But after a while I began to recognize the telltale signs of this other problem. I saw the same signs in suburban ranch houses and split-levels on Long Island and in New Jersey and Westchester County; in colonial houses in a small Massachusetts town; on patios in Memphis; in suburban and city apartments; in living rooms in the Midwest. Sometimes I sensed the problem, not as a reporter, but as a suburban housewife, for during this time I was also bringing up my own three children in Rockland County, New York. I heard echoes of the problem in college dormitories and semiprivate maternity wards, at PTA meetings and luncheons of the League of Women Voters, at suburban cocktail parties, in station wagons waiting for trains, and in snatches of conversation overheard at Schrafft's. The groping words I heard from other women, on quiet afternoons when children were at school or on quiet evenings when husbands worked late, I think I understood first as a woman long before I understood their larger social and psychological implications....

If I am right, the problem that has no name stirring in the minds of so many American women today is not a matter of loss of femininity or too much education, or the demands of domesticity. It is far more important than anyone recognizes. It is the key to these other new and old problems which have been torturing women and their husbands and children, and puzzling their doctors and educators for years. It may well be the key to our future as a nation and a culture. We can no longer ignore that voice within women that says: "I want something more than my husband and my children and my home."

1. What does Friedan mean by "the mystique of feminine fulfillment?" How do male authority figures contribute to it?

2. Why does Friedan think it so important to "name" the problem?
