



POL 379: Topics in Comparative Politics III Civil Liberties in the United States

University of Toronto
Fall 2023: Wed. 11am-1pm

Instructor: Dr. Connor Ewing

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Office Hours: Tues. 1pm-3pm ([SS 3065](#)) (or by appointment via Zoom)

Course Description

This course offers a survey of American constitutional law in the area of civil liberties. The general domains of doctrinal development to be covered include: fundamental rights; freedoms of speech, press, and assembly; freedom of (and freedom from) religion; rights to privacy and autonomy; the guarantees of due process and equal protection of the laws; sexual and familial rights; and economic and socio-economic rights (or their absence). To make sense of the jurisprudential developments in each of these areas, the course will also take account of broader trends in legal history, social transformation, and constitutional interpretation.

Course Objectives

This course is intended to:

- provide students with an understanding of the content and development of American civil rights jurisprudence;
- expose students to the fundamentals of legal reasoning, including the role and use of rules, standards, precedent, and fact patterns; and
- develop legal reasoning skills through engagement with written sources and the production of legal arguments.

Course Text

- *American Constitutional Law: Liberty, Community, and the Bill of Rights* (Vol. 2, 4th ed.) Edited by Kommers, Finn, Jacobsohn, Thomas, and Dyer. West Academic, 2018 (ISBN: 978-168-328-9012). [Referenced as "ACL" in Course Calendar]

** Available at the University of Toronto Bookstore. Reading assignments are based on this edition of the text. Earlier versions do not include many of the cases we will read and discuss.*

Course Format

This course will meet weekly for a 2-hour lecture. In each class, we will focus on a particular area of American constitutional law relevant to civil rights, sequentially covering textual foundations, historical context(s) and development(s), and key cases. In addition to traditional lecture components, in which I will work through the assigned readings and supply additional content relevant to the topics under consideration, the classes will feature—and, for both its success and your enjoyment, will crucially depend on—a large measure of in-class discussion. To encourage broad-based participation, I will employ a modified Socratic method; if volunteers are not forthcoming, participants will be selected at random.

The primary purpose of the class meetings is to work together to better understand the course material, not for me to transmit copious amounts of information for you to transcribe. To that end, all course materials used in lecture—slides, handouts, etc.—will be made available on the course website. You are expected to complete the assigned readings prior to class and to come prepared to discuss the material.

Marking Scheme

- **Engagement: 20%**
- **Exams: 65%**
 - Midterm: 30% (Oct. 25)
 - Final: 35% (Exam Period, date TBA)
- **Case Brief: 1%** (due Oct. 5)
- **Critical Analysis Brief: 10%** (due Dec. 6)
- **Course Notes: 4%**
 - Weeks 2-6 (due Oct. 25): 2%
 - Weeks 8-12 (due at Final Exam): 2%

Marking Scheme: Explanation

- **Engagement:** Engagement is intended to assess your involvement in and contribution to the course. The most significant components are attendance and participation. Participation can take many forms: making a comment, asking a question, contributing to class discussion boards, listening attentively and respectfully when your classmates are speaking, and a number of other overt ways of taking part in the weekly class meetings. When it comes to participation, quality is at least as important as quantity. In other words, what matters isn't necessarily how much you say. A short but incisive question can be as valuable as an extended reflection on a topic that arises in discussion. At the same time, participation isn't just talking; it is contributing constructively to the topic under consideration in a manner that demonstrates you've been listening to what your classmates have said. You are expected to attend class each week for the entirety of the class period and to behave both professionally and respectfully. If, for any reason, you are unable to attend class, you should contact me ahead of time. Life happens, things come up. It's better to be in touch with me than to have me wonder where you are. Beyond participation in class, engagement is also reflected in showing up for office hours, emailing to ask a question about the material or an assignment, or (again) any number of less overt ways of engaging with the course material. If at any point in the course you have questions about this component of the final mark, don't hesitate to contact me.

- *Two “free passes”*: If, for any reason, you are unprepared to participate in class, you can notify me before class (via email or in person) twice with no penalty to your participation grade.
- **Exams**: The course includes two exams, a Midterm administered in Week 7 and a Final administered during the Exam Period. For both, you will be required to respond to a hypothetical that includes a fact pattern presenting a range of constitutional questions. Your response should (1) identify the constitutional questions that are presented, (2) identify the relevant precedents, and (3) apply those precedents to the questions presented by the facts of the case. Both exams are open-book and open-note.
- **Case Brief**: A summary of the main components of any case from Weeks 3 and 4 (First Amendment: Freedom of Speech). Samples can be found in the Files folder.
- **Critical Analysis Brief**: For this assignment, you will be asked to write a 1,250 word brief that (1) summarizes the development of one area of jurisprudence from the second half of the course and (2) offers your analysis of that development. Your brief should identify (a) the relevant constitutional sources/foundations, (b) past and controlling tests, (c) key disagreements and fault-lines, and (d) your assessment of this body of case law.
- **Course Notes**: To incentivize the creation of notes and other materials that will aid you on the exams, you will receive credit for the course notes you prepare. These can either be submitted on the course website the day of the relevant exam or shown to me in person upon submission of your exam.

Marking Rubric

This course uses the standard UofT grading scale. For further information on grading, please consult the [Office of the Registrar](#).

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|--------------|-------------|
| • 90-100: A+ | • 63-66: C |
| • 85-89: A | • 60-62: C+ |
| • 80-84: A- | • 57-59: D+ |
| • 77-79: B+ | • 53-56: D |
| • 73-76: B | • 50-52: D- |
| • 70-72: B- | • 0-49: F |
| • 67-69: C+ | |

COURSE POLICES

Plagiarism & Academic Integrity

Academic integrity is essential to the pursuit of learning and scholarship in a university, as well as to ensuring that a degree from the University of Toronto is a strong signal of each student's individual academic achievement. As a result, I treat cases of cheating and plagiarism very seriously. All suspected cases of academic dishonesty will be investigated following procedures outlined in the [Code of Behaviour on Academic Matters](#). You are expected to seek out additional information on academic integrity from me or from other institutional resources (see, for example, the University of Toronto website on Academic Integrity: <https://www.academicintegrity.utoronto.ca/>).

Normally, you will be required to submit assignments to the University's plagiarism detection tool for a review of textual similarity and detection of possible plagiarism. In doing so, you will allow your essays to be included as source documents in the tool's reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of this tool are described on the Centre for Teaching Support & Innovation web site (<https://uoft.me/pdt-faq>).

** Note: the University's plagiarism detection tool is integrated into the Quercus assignment submission system. After submitting an assignment, you will receive a percentage "score" showing how much non-original material the assignment includes. You are encouraged to use this score as a guide for making revisions to your assignments prior to the submission deadline.*

Accessibility & Accommodations

Students with diverse learning styles and needs are welcome in this course. If you may require accommodations, please register with Accessibility Services on the phone (416-978-8060), via email (accessibility.services@utoronto.ca), or at their office (455 Spadina Avenue, 4th Floor, Suite 400, Toronto, ON, M5S 2G8). E-mail me, or have a representative from Accessibility Services e-mail me, as soon as possible so you can be accommodated in a timely manner. Also, please e-mail me as early as possible to discuss accommodating any anticipated absences related to religious observances or family care and the implications for course work.

Late Penalty Policy

For assignments submitted after the due date, a penalty of 2% per day of lateness will be assessed.

Re-Marking Policy

If you believe an assignment or exam has been incorrectly graded, there is the opportunity for re-marking. To initiate this process, you must submit a brief written statement outlining why you believe you deserve a higher mark. This statement should be submitted no sooner than 2 but no more than 7 days after the assignment or exam is returned. Your assignment or exam will then be remarked in full and the new mark, whether higher or lower than the original, will be final.

ADDITIONAL RESOURCES

The University of Toronto has many resources to help you succeed in your academic pursuits.

If you are feeling overwhelmed or distressed, help is available. Please contact or visit your college registrar's office, [the contact information for which can be found here](#). You can also reach out to the University's [Health & Wellness office](#), which offers a wide range of support and services. Additional information and assistance can be found in the [University's Student Mental Health Resource](#).

If you need to declare an absence, please see the [policies and information provided on the University website](#), and [follow the directions for declaring an absence in ACORN](#).

You may not know about the wide range of excellent **writing** resources on campus. These include:

- **College writing centres:** <http://writing.utoronto.ca/writing-centres/arts-and-science/>. The teaching approach of the college writing centres is described at <http://writing.utoronto.ca/writing-centres/learning/>.
- **Writing at the University of Toronto:** <http://writing.utoronto.ca>.
- More than 60 advice files on all aspects of academic writing are available at <http://advice.writing.utoronto.ca>. A complete list of printable PDF versions are listed at <http://advice.writing.utoronto.ca/student-pdfs/>.
- You may also wish to refer to “**How Not to Plagiarize**” and other resources on documentation format and methods of integrating sources; these are listed in the section at <http://advice.writing.utoronto.ca/using-sources/>.
- The University of Toronto also has an excellent **Writing Plus** workshop series, described at <http://writing.utoronto.ca/writing-plus/>.
- Information about the **English Language Learning** program (ELL) is available at <http://www.artsci.utoronto.ca/current/advising/ell>. One of ELL's programs is the **Communication Café**, which meets weekly at five different times and locations for the first seven weeks of each term for practice with oral skills like class discussion and presentations. ELL also sponsors an online program called **Reading eWriting**, which helps students engage course readings more effectively.

For a primer on sources and citation, see <https://guides.library.utoronto.ca/citing>

COURSE CALENDAR

Introduction

Week 1 (Sept. 13)

- *ACL*:
 - Part One Introduction (pp. 1-2)
 - Chapter 1, A-E (pp. 3-21)
 - Chapter 2, A-B (pp. 33-41)
- U.S. Constitution & Bill of Rights (*ACL*, Appendix B; pp. 1365-1385)

Background & Further Reference:

- Understanding Supreme Court Opinions (*ACL*, Appendix F)
- Orin Kerr, "How to Read a Legal Opinion" (2007)

Background & Foundations

Week 2 (Sept. 20)

- *ACL*: Chapter 4, A-G (pp. 167-195)
- *Barron v. Baltimore* (1833) (pp. 199-202)
- *Slaughter-House Cases* (1873) (pp. 202-218)
- *Palko v. Connecticut* (1937) (pp. 218-222)

First Amendment: Freedom of Speech

Week 3 (Sept. 27)

- *ACL*: Chapter 7, A-B (pp. 703-734)
- *Schenck v. United States* (1919) (pp. 746-751)
- *Dennis v. United States* (1951) (pp. 751-763)
- *Brandenburg v. Ohio* (1969) (pp. 764-768)
- *New York Times Co. v. United States* (1971) (pp. 768-778)

Week 4 (Oct. 4)

*** Case brief due ***

- *Chaplinsky v. New Hampshire* (1942) (pp. 779-783)
- *Cohen v. California* (1971) (pp. 788-795)
- *New York Times Co. v. Sullivan* (1971) (pp. 795-800)
- *Texas v. Johnson* (1989) (pp. 803-820)
- *R.A.V. v. City of St. Paul* (1992) (pp. 822-832)
- *Miller v. California* (1973) (pp. 846-855)

First Amendment: Religious Establishment

Week 5 (Oct. 11)

- *ACL*: Chapter 8, A-C (pp. 891-911)
- *Everson v. Board of Education* (1947) (pp. 934-942)
- *Engel v. Vitale* (1962) (pp. 942-948)
- *Lemon v. Kurtzman* (1971) (pp. 948-956)
- *Wallace v. Jaffree* (1985) (pp. 956-966)
- *Lee v. Weisman* (1992) (pp. 966-989)
- *Town of Greece v. Galloway* (2014) (pp. 1023-1039)
- *Kennedy v. Bremerton School District* (2022)*

First Amendment: Religious Free Exercise

Week 6 (Oct. 18)

- *ACL*: Chapter 8, D-E (pp. 911-920)
- *Sherbert v. Verner* (1963) (pp. 1053-1059)
- *Wisconsin v. Yoder* (1971) (pp. 1059-1067)
- *Employment Division v. Smith* (1990) (pp. 1067-1078)
- *Boerne v. Flores* (1997) (pp. 1078-1091)
- *Christian Legal Society v. Martinez* (2010) (pp. 1091-1100)
- *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018)*

*** Week 7 (Oct. 25): Midterm Exam ***

Fundamental Rights: Privacy & Personhood

Week 8 (Nov. 1)

- *ACL*: Chapter 6, A-C (pp. 455-489)
- *Meyer v. Nebraska* (1923) (pp. 499-508)
- *United States v. Carolene Products* (1938) (pp. 498-499)
- *Griswold v. Connecticut* (1965) (pp. 509-523)
- *Washington v. Glucksberg* (1997) (pp. 686-702)
- *Roe v. Wade* (1973) (pp. 523-539)
- *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) (pp. 539-564)

*** No Class Nov. 9 (Reading Week) ***

Week 9 (Nov. 15)

- *Bowers v. Hardwick* (1986) (pp. 611-625)
- *Lawrence v. Texas* (2003) (pp. 625-645)
- *United States v. Windsor* (2013) (pp. 645-654)
- *Obergefell v. Hodges* (2015) (pp. 654-672)
- *Dobbs v. Jackson Women's Health* (2022)*

The Equal Protection Clause & Racial Discrimination

Week 10 (Nov. 22)

- *ACL*: Chapter 9, A-E (pp. 1115-1140)
- *Dred Scott v. Sanford* (1857) (pp. 1146-1152)
- *The Civil Rights Cases* (1883) (pp. 1173-1183)
- *Strauder v. West Virginia* (1880) (pp. 1152-1158)
- *Plessy v. Ferguson* (1896) (pp. 1158-1166)

Week 11 (Nov. 29)

- *Brown v. Board of Education of Topeka* (1954) (pp. 1166-1173)
- *Shelley v. Kraemer* (1948) (pp. 1184-1187)
- *Regents of the University of California v. Bakke* (1978) (pp. 1190-1204)
- *Grutter v. Bollinger* (2003) (pp. 1216-1226)
- *Parents Involved in Community Schools v. Seattle School District No. 1* (2007) (pp. 1226-1239)
- *Schuetz v. Coalition to Defend Affirmative Action* (2014) (pp. 1239-1247)
- *Students for Fair Admissions v. Harvard* (2023)*

Gender Discrimination & Other Claims to Equality

Week 12 (Dec. 6)

- *ACL*: Chapter 10, A-E (pp. 1255-1277)
- *Shapiro v. Thompson* (1969) (pp. 1287-1292)
- *San Antonio Independent School District v. Rodriguez* (1973) (pp. 1293-1300)
- *Frontiero v. Richardson* (1973) (pp. 1306-1312)
- *Craig v. Boren* (1976) (pp. 1312-1319)
- *United States v. Virginia* (1996) (pp. 1319-1329)
- *Romer v. Evans* (1996) (pp. 1350-1359)

*** Final Exam: Date & Time TBA ***