

POL 379/USA 313: CIVIL LIBERTIES IN THE UNITED STATES

UNIVERSITY OF TORONTO

FALL 2019

Dr. Connor Ewing

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Schedule: Thursday 12:00pm-2:00pm

Location: BL 313

Office Hours: Tues. 4:00pm-6:00pm & Thurs. 2:00pm-4:00pm (Larkin 215)

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.*

Academic Integrity

The University of Toronto treats cases of plagiarism very seriously. The *Code of Behaviour on Academic Matters* outlines the behaviours that constitute academic dishonesty and the procedures for addressing academic offenses. If you have questions or concerns about what constitutes appropriate academic behaviour or research and citation methods, you should seek information from your instructor or other university resources. (See <http://www.utoronto.ca/academicintegrity/resourcesforstudents.html>.)

Accessibility

The University provides academic accommodations for students with disabilities in accordance with the terms of the Ontario Human Rights Code. For information on services and resources, see <http://www.studentlife.utoronto.ca/as>.

Turnitin.com

Normally, students will be required to submit their course essays to Turnitin.com for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site.

** Note: Turnitin 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.*

Late Penalty Policy

For assignments submitted after the due date, a penalty of 5% per day of lateness will be assessed. For assignments due over the course of the term (e.g., response papers), it is the responsibility of the student to ensure that the minimum number are submitted before the conclusion of the term.

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.

Marking Scheme

- Participation: 15%
 - 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.
- Case Brief (due Sept. 26): 5%
- Critical Analysis Brief (due Dec. 5): 15%
- Course Notes: 5%
 - Weeks 2-6 (due Oct. 17): 2.5%
 - Weeks 8-12 (due Dec. 5): 2.5%
- Midterm Examination (Week 7, Oct. 17): 25%
- Final Examination (Exam Period, Date TBA): 35%

Marking Rubric

Percentage	Letter	Grade Description
90-100	A+	Excellent: Strong evidence of original thinking; good organization; capacity to analyze and synthesize; superior grasp of subject matter with sound critical evaluations; evidence of extensive knowledge base.
85-89	A	
80-84	A-	
77-79	B+	Good: Evidence of grasp of subject matter; some evidence of critical capacity and analytic ability; reasonable understanding of relevant issues; evidence of familiarity with literature.
73-76	B	
70-72	B-	
67-69	C+	Adequate: Student who is profiting from his/her university experience; understanding of the subject matter; ability to develop solutions to simple problems in the material.
63-66	C	
60-62	C-	
57-59	D+	Marginal: Some evidence of familiarity with subject matter and some evidence that critical and analytic skills have been developed.
53-56	D	
50-52	D-	
0-49	F	Inadequate: Little evidence of even superficial understanding of subject matter; weakness in critical and analytic skills; with limited or irrelevant use of literature.

For further information on grading, please see the University of Toronto Faculty of Arts & Sciences [Grading Policies](#).

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. To find your college registrar, go here <http://www.artsci.utoronto.ca/newstudents/nextsteps/contact>.

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: September 5

- *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)

Further Reference:

- Understanding Supreme Court Opinions (*ACL*, Appendix F)

Background & Foundations

Week 2: September 12

- *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: September 19

- *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: September 26

*** 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: October 3

- *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)

First Amendment: Religious Free Exercise

Week 6: October 10

- *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. 17): Midterm Exam ***

Fundamental Rights: Privacy & Personhood

Week 8: October 24

- *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)

Week 9: October 31

- *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) (pp. 539-564)
- *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)

*** No Class Nov. 7 (Reading Week) ***

The Equal Protection Clause & Racial Discrimination

Week 10: November 14

- *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: November 21

- *Brown v. Board of Education of Topeka* (1954) (pp. 1166-1173)
- *Shelley v. Kraemer* (1848) (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)

Gender Discrimination & Other Claims to Equality

Week 12: Nov. 28

- *ACL*: Chapter 10, A-E (pp. 1255-1277)
- *Shapiro v. Thomason* (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 ***