

POL 379: TOPICS IN COMPARATIVE POLITICS III CIVIL LIBERTIES IN THE UNITED STATES

UNIVERSITY OF TORONTO
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Schedule: Wednesday 10:00am-12:00pm

Location: [UC 161](#)

Office Hours: Thurs. 2:00pm-4:00pm ([SS 3065](#)) & by appointment ([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.*

Marking Scheme

- **Engagement: 15%**
- **Case Brief: 5%** (due Oct. 5)
- **Midterm Examination: 25%** (Week 7, Oct. 26)
- **Final Examination: 35%** (Exam Period, date TBA)
- **Critical Analysis Brief: 15%** (due Dec. 7)
- **Course Notes: 5%** (for use on Midterm and Final Exams)
 - Weeks 2-6 (due Oct. 26): 2.5%
 - Weeks 8-12 (due at Final Exams): 2.5%

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 the class chat if/when the class is online, 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 when necessary, 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.
- **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.
- **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 identify the relevant precedents and answer the questions presented by the facts. Both exams are open-book and open-note.
- **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

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](#).

COURSE POLICES

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>.)

Plagiarism

Normally, students will be required to submit their course essays to the University's plagiarism detection tool 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 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 should feel free to use this score as a guide for making revisions to your assignments prior to the submission deadline.*

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>.

Late Penalty Policy

For assignments submitted after the due date, a penalty of 2% per day of lateness will be assessed. For assignments due over the course of the term (e.g., weekly discussion board posts), 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.

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 (Sept. 14)

- *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. 21)

- *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. 28)

- *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. 5)

*** 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. 12)

- *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. 19)

- *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. 26): Midterm Exam ***

Fundamental Rights: Privacy & Personhood

Week 8 (Nov. 2)

- *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. 16)

- *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. 23)

- *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. 30)

- *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)
- *Schuette v. Coalition to Defend Affirmative Action* (2014) (pp. 1239-1247)

Gender Discrimination & Other Claims to Equality

Week 12 (Dec. 7)

- *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 ***