Brandeis University

Civil Liberties: Constitutional Debates

LGLS 116b

Course Syllabus—Summer 2017

Course Information

June 5-August 11

Instructor Information

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Virtual Office Hours:

By Appointment, Monday—Friday 9:00—5:00 (an evenings, as needed)

Document Overview

This syllabus contains all relevant information about the course; its objectives and outcomes, the grading criteria, the materials of instruction, as well as weekly topics, outcomes, assignments and due dates. Consider this your road map to the course. Please read this syllabus through carefully and feel free to share any questions that you may have. You may want to print a copy for your reference.

Course Description

This course will examine the history and politics of civil liberties and civil rights in the United States, with emphasis on the period between World War One and the present. Emphasis will be placed on Freedom of Speech, Religion, Abortion, Privacy, Racial Discrimination and Affirmative Action. Readings will include Supreme Court cases and influential works by historians and political philosophers.

Instructor’s Note

I have been teaching Civil Liberties at Brandeis for five years, and am delighted to be offering the class on-line for the summer semester. I look forward to helping each of you gain a firmer grasp of the major controversies that have shaped our understandings of constitutional freedoms, and the state of the law today. You should always free feel to let me know if you do
not quite understand the rule announced in a given case, or the reasoning which led to it—after all, these are complicated decisions, and there were excellent arguments on the other side for each of them. Even if you are new to reading cases, I want to do all I can to make them comprehensible to you, so that by the end of the summer you’ll be in good shape to understand the constitutional controversies that are sure to find their way into public debates in the future.

Materials of Instruction

All of the texts are freely available on-line. If I do not post a text directly on the LATTE site, I will include a link to the relevant site where you can find it.

Overall Course Outcomes

Upon the successful completion of this course, students will be able to;

1) Describe how broader trends in American history have shaped evolving understandings of the meaning of the liberties enshrined in the Constitution;
2) Apply the primary rules of constitutional adjudication to current issues and controversies;
3) Know and critically evaluate the Supreme Court decisions that have proven most important in shaping the reach of civil liberties;
4) Describe the characteristic judicial approaches of the most influential Supreme Court justices, with a view towards seeing how those approaches shaped their rulings.

Course Grading Criteria

25% Discussions/ On-Line Participation (including original responses to discussion questions and replies to other students)
40% Short Paper Assignments
35% Final Paper Assignment

Description of Assignments

Discussions/ On-Line Participation

• Students must post an original response to one of the two discussion questions in the Weekly Discussion Forum on or before midnight on the Wednesday of each week.
• In addition, students must post at least two substantive replies to the posts of other students on or before midnight on the Saturday of each week. The assumption is that you will read through your classmates’ posts to enhance your learning, and respond to the posts of your choice based on your own thoughts and insights.
• Evaluation Criteria: In your posts, you should include your own responses to the cases and texts, sharing when appropriate your own outlooks and experiences and how they have influenced your conclusions. You might also pose questions to your fellow
students that spring from the original discussion questions. Original posts should be somewhere between 200 and 300 words in length, while reply posts should consist of at least 200 words (that is, they should be substantive not simply an “I agree” type of message). Here is a general guide for the components of a good, well-considered discussion response:

A—Level: The post contains a provocative idea that reflects a close reading of the text, an idea that is well-developed and expressed and likely to encourage further thought and discussion.

B—Level: The post contains a clearly-stated opinion with some justification from the text.

C—Level: The post reflect some consideration of the text, but tends toward vagueness with little indication of serious engagement with the material.

D—Level: The post is brief and perfunctory; no indication that there was anything more than skimming of the text.

Your postings to the forums will be as rich as we all can make them. The cases themselves are rich with endless possibilities of interpretation, and I very much look forward to interesting, thought-provoking forums.

Short Paper Assignments

These assignments will be designed to give you an opportunity to develop at greater length your responses to the cases and doctrines we confront during the semester. There will be four of these assignments, consisting of “thought-pieces” of 2-3 pages in length. Each of them will present you with a controversial, hypothetical fact situation implicating a controversial area of the law. Your task will be to come up with a reasoned solution to the problem, based on a close reading of one or more of the cases.

Final Paper Assignment

Due at the end of the semester, this paper will consist of a broader question, geared towards eliciting your thoughts on the role of civil liberties in American life. Rather than a meditation on one or two cases, this paper will give you a chance to expound upon what you have learned about the role of civil liberties in American life, and perhaps suggest further areas to which they ought to be extended.

Weekly Outline of the Class

Week 1 (June 5-9) The Constitutional Setting

READINGS: Thomas Hobbes and John Locke on Civil Liberties

Marbury v. Madison
**Week 2** (June 12-16) *Economic Rights*

**READINGS:** *Fletcher v. Peck*

  - *Charles River Bridge v. Warren*
  - *Pennsylvania Coal Co. v. Mahon*
  - *Kelo v. NLDC*
  - *Lucas v. South Carolina Coastal Council*

  **FIRST SHORT ASSIGNMENT DUE:** June 17

**Week 3** (June 19-24) *Freedom of Speech and Association (I)*

**READINGS:** *Schenck v. United States*

  - *Abrams v. United States*
  - *Whitney v. California*
  - *Cohen v. California*
  - *New York Times v. Sullivan*

**Week 4** (June 26-June 30) *Freedom of Speech and Association (II)*

**READINGS:** *Texas v. Johnson*

  - *R.A.V. v. St. Paul*
  - *Snyder v. Phelps*
  - *Alvarez v. California*
  - *Boy Scouts of America v. Dale*

  **SECOND SHORT ASSIGNMENT DUE:** July 1

**Week 5** (July 5-7) *The Establishment Clause*

**READINGS:** *Engels v. Vitale*

  - *Lee v. Weisman*
  - *Van Orden v. Perry*
  - *Zobrest v. Catalina Foothills School District*
  - *Zelman-Harris v. Simmons*
Week 6 (July 10-14) The Free Exercise Clause

Readings: Sherbert v. Verner

Wisconsin v. Yoder

Employment Services v. Smith

Church of the Lukumi Babalu Aye v. City of Hialeah

City of Boernes v. Flores

Third Assignment Due: July 15

Week 7 (July 17-21) Equal Protection (I)

Readings: Plessy v. Ferguson

Brown v. Board of Education

Bakke v. Board of Regents

Grutter v. Bollinger

Parents Involved in Community Schools v. Seattle

Week 8 (July 24-28) Equal Protection (II)

Readings: San Antonio School District v. Rodriguez

Frontiero v. Richardson

U.S. v. Virginia

Romer v. Evans

Obergefell v. Hodges

Fourth Paper Due: July 29

Week 9 (August 2-6) The Due Process Clause

Readings: Griswold v. Connecticut

Roe v. Wade

Planned Parenthood v. Casey

Glucksberg v. Washington

Lawrence v. Texas
Week 10: (August 8-12) Summing Up: Civil Liberties in America

Final Paper Due: August 11

III. Course Policies and Procedures

Asynchronous Work

All required work for the course may be done asynchronously; i.e., students can log in to the course, read and download materials, post to the forums, and submit assignments throughout the course week. Please follow the syllabus with care, with a view towards managing your time in the most effective way possible.

Occasionally, however, I will use the BlueJeans Course Tool to make myself available for live video conferencing sessions, so that you may if you like engage in a synchronous discussion with me and your fellow students. You are not required to attend these sessions, but they will be there to help you if you feel as if you could benefit from them.

Work Expectations

Of course, you are expected to complete the reading, post discussion comments and complete assignments within the time assigned on the syllabus. Late posts and assignments will as a general rule not be accepted without a medical excuse. However, your professional commitments may, only rarely, give rise to a legitimate reason for failing to meet a deadline. If this is the case, you must notify me at least 24 hours in advance. Non-medical excuses of this sort will be considered on a case by case basis.

As a general rule, I would think you should spend 2-3 hours per week on the reading assignments, and on average, 5-6 hours per week posting forum responses and completing the short writing assignments.

Also as a general rule, I will provide feedback on your posts, and on your written assignments, within 48 hours of their submission.

Confidentiality

Throughout the semester, as you participate in discussions, you should feel perfectly free to discuss your own experiences in life as you evaluate the cases we read, but even as you do so, you should not share information that is privileged, confidential or proprietary in nature. We should all be mindful of the respect owing to yourself and your fellow classmates, working under the assumption that nothing discussed in the posts should be revealed outside the confines of our class. Still, you should be aware that members of the University’s technical staff may have access to our course LATTE site, for purposes of troubleshooting occasional technical issues.