

PHIL 165: FREEDOM, EQUALITY, AND THE LAW
Winter 2015

Professor: Samuel Rickless

Office: HSS 8009

Office Hours: Tuesdays and Thursdays, 12:45pm-1:45pm

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Course Description

In this course we will explore the way in which the concepts of freedom and equality have been understood and applied under the United States Constitution. We will ask whether the Constitution is a moral document designed to implement justice or a document designed to enshrine a particular set of traditions into law. We will then look at how the Equal Protection Clause of the Fourteenth Amendment has been applied to cases in which government has discriminated on grounds of race, ethnic background, gender, undocumented status, wealth, and sexual orientation. We will also look at how the Due Process clauses of the Fifth and Fourteenth Amendments have been applied to cases involving the right to make crucial decisions about one's own life, such as whether to use contraceptives, obtain an abortion, marry a person of a different race, and marry a person of the same sex. Cases to be discussed include some of the most important cases in the history of United States law: *Dred Scott*, *The Slaughterhouse Cases*, *Yick Wo*, *Plessy*, *Lochner*, *Brown*, *Palko*, *Carolene Products*, *Korematsu*, *Bakke*, *Grutter*, *Craig v. Boren*, *U.S. v. Virginia*, *Rodriguez*, *Plyler v. Doe*, *Griswold*, *Roe*, *Casey*, *Bowers*, *Lawrence*, and *Windsor*. At every stage, we will be asking whether the U.S. Supreme Court's interpretation of the law in these cases is consistent with justice and the values underlying our constitutional republic.

Course Schedule and Readings

All course readings are available on the TED course website. I strongly recommend downloading and printing as many of the readings as you can at the beginning of the course. I will not respond to requests to email you copies of the readings. If you have difficulty locating or downloading the readings, please contact Academic Computing Services (about TED).

Course Powerpoints

PowerPoint slides are available in PDF format on the TED course website. These slides are designed as summaries, functioning as study aids. Important details are missing from the slides. Please do not assume that the slides contain everything you need to know. ***These slides are protected by copyright, and it is illegal for you to post them on any website, sell them to anyone, or send them to anyone in any form (including email) without my permission. They are for your personal use only.***

Week 1. The United States Constitution and the Bill of Rights

January 6 Readings: Declaration of Independence
The Constitution of the United States

January 8 Readings: James Madison, *Federalist #10*
Alexander Hamilton, *Federalist #78*
George Mason, *Objections to the Proposed Constitution*
George Mason, *The Virginia Declaration of Rights*
James Madison: Speech Proposing Amendments to the Constitution of the
United States

Week 2. Constitutional Interpretation

January 13 Readings: Walter Sinnott-Armstrong and Susan Brison, “A Philosophical Introduction
to Constitutional Interpretation”

January 15 Readings: Antonin Scalia, *A Matter of Interpretation* (excerpts)
Ronald Dworkin, “Comment on *A Matter of Interpretation*”
Antonin Scalia, “Reply to Dworkin’s Comment”

Week 3. Freedom, Race, and Ethnicity

January 20 Readings: *Dred Scott v. Sandford* (1857)
The Fourteenth Amendment to the United States Constitution
The Slaughterhouse Cases (1873)

January 22 Readings: *Lochner v. People of State of New York* (1905)
Palko v. State of Connecticut (1937)
U.S. v. Carolene Products Co., footnote 4 (1938)
Korematsu v. U.S. (1944)

Week 4. Equality and Race

January 27 Readings: *Yick Wo v. Hopkins* (1886)
Plessy v. Ferguson (1896)
FIRST PAPER DUE

January 29 Readings: *Sweatt v. Painter* (1950)
McLaurin v. Oklahoma State Regents (1950)
Brown v. Board of Education (1954)

Week 5. Affirmative Action and Race

February 3 Readings: *Regents of the University of California v. Bakke* (1978)
Grutter v. Bollinger (2003)

February 5 Readings: *Parents Involved etc. v. Seattle School District* (2007)

Fisher v. University of Texas at Austin (2013)

Week 6. Gender

February 10 Readings: *Bradwell v. State of Illinois* (1873)
Muller v. Oregon (1908)
Reed v. Reed (1971)
Frontiero v. Richardson (1973)

February 12 Readings: *Craig v. Boren* (1976)
U.S. v. Virginia (1996)

Week 7. Poverty and Undocumented Status

February 17 Readings: *San Antonio School District v. Rodriguez* (1973)

February 19 Readings: *Plyler v. Doe* (1982)

Week 8. Privacy: Contraception and Abortion

February 24 Readings: *Griswold v. Connecticut* (1965)
Eisenstadt v. Baird (1972)
SECOND PAPER DUE

February 26 Readings: *Roe v. Wade* (1973)
Planned Parenthood v. Casey (1992)

Week 9. Sexual Freedom

March 3 Readings: *Bowers v. Hardwick* (1986)

March 5 Readings: *Lawrence v. Texas* (2003)

Week 10. Same-Sex Marriage and Polygamy

March 10 Readings: *Reynolds v. U.S.* (1878)
Loving v. Virginia (1967)

March 12 Readings: *Goodridge v. Department of Public Health* (Mass. 2003)
U.S. v. Windsor (2013)

Requirements:

- 7 Quizzes 10%
- First Paper (due January 27) 20%
- Second Paper (due February 24) 30%
- Final exam (March 19, 11:30am-2:30pm) 40%

Grading Policies:

- The two lowest Quiz grades will be dropped, leaving five Quiz grades, each of which will count for 2% of your course grade. The Quizzes will be administered at the very beginning of class, so please plan on getting to lecture on time. Each Quiz will focus on the readings for that day. Please be prepared for the possibility that Quizzes will be administered on January 27 and February 24.
- Make-up examinations and paper extensions will only be given to those who present evidence indicative of a valid excuse in a timely manner. If at any time you believe you have a legitimate claim to an extension or make-up, bring it to my attention as soon as possible. *Unexcused late papers and unexcused missed examinations will receive a grade of 'F'.*
- Hard copies of your papers must be turned in to me and electronic copies uploaded to turnitin.com. It is very easy to upload your papers, and instructions will be included in your assignments.

Additional Notes

- **The use of any electronic equipment other than a note-taking device during lecture is prohibited. The use of such equipment for any purpose other than note-taking is also prohibited. Any student who is watching videos, IM'ing, surfing the web, texting, or engaging in any form of activity that is not directly related to this course or poses a risk of distracting other students during lecture will be asked to leave.**
- If accommodations are needed for a disability or for religious reasons, please discuss the matter with me as soon as possible.
- The academic honor code must be observed in this course. Cheating and plagiarism will not be tolerated. **Anyone caught cheating or plagiarizing will receive an automatic F in the course (not just an F on the relevant assignment) and will be referred to the Office of Academic Integrity and the Council of Deans for administrative penalties, which may include suspension or expulsion from UCSD.**
The UCSD Library has a helpful tutorial on plagiarism prevention here:
<http://libraries.ucsd.edu/services/instruction/preventing-plagiarism/index.html>
- The policies, readings, and schedule described above are subject to change.