

PHIL 165: FREEDOM, EQUALITY, AND THE LAW
Spring 2016

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 Notes

Lecture notes are available in PDF format on the TED course website. The notes are designed as summaries, functioning as study aids. Important details are missing from the notes. Please do not assume that the notes contain everything you need to know. ***These notes 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 else (including email) without my permission. They are for your personal use only.***

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

March 29 Readings: The Constitution of the United States

March 31 Readings: James Madison, *Federalist #10*
Alexander Hamilton, *Federalist #78*
George Mason, *Objections to the Proposed Constitution*
James Madison: Speech Proposing Amendments to the Constitution of the United States

Week 2. Constitutional Interpretation

April 5 Readings: Walter Sinnott-Armstrong and Susan Brison, “A Philosophical Introduction to Constitutional Interpretation”

April 7 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

April 12 Readings: *Dred Scott v. Sandford* (1857)
The Fourteenth Amendment to the United States Constitution
The Slaughterhouse Cases (1873)

April 14 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

April 19 Readings: *Yick Wo v. Hopkins* (1886)
Plessy v. Ferguson (1896)
FIRST PAPER DUE

April 21 Readings: *Sweatt v. Painter* (1950)
McLaurin v. Oklahoma State Regents (1950)
Brown v. Board of Education (1954)

Week 5. Affirmative Action and Race

April 26 Readings: *Regents of the University of California v. Bakke* (1978)
Grutter v. Bollinger (2003)

April 28 Readings: *Parents Involved etc. v. Seattle School District* (2007)
Fisher v. University of Texas at Austin (2013)

Week 6. Gender

May 3 Readings: *Bradwell v. State of Illinois* (1873)
Muller v. Oregon (1908)
Reed v. Reed (1971)
Frontiero v. Richardson (1973)

May 5 Readings: *Craig v. Boren* (1976)
U.S. v. Virginia (1996)

Week 7. Poverty and Undocumented Status

May 10 Reading: *San Antonio School District v. Rodriguez* (1973)

May 12 Reading: *Plyler v. Doe* (1982)

Week 8. Privacy: Contraception and Abortion

May 17 Readings: *Griswold v. Connecticut* (1965)
Eisenstadt v. Baird (1972)
SECOND PAPER DUE

May 19 Readings: *Roe v. Wade* (1973)
Planned Parenthood v. Casey (1992)

Week 9. Sexual Freedom

May 24 Reading: *Bowers v. Hardwick* (1986)

May 26 Reading: *Lawrence v. Texas* (2003)

Week 10. Same-Sex Marriage and Polygamy

May 31 Readings: *Reynolds v. U.S.* (1878)
Loving v. Virginia (1967)

June 2 Reading: *U.S. v. Windsor* (2013)

Requirements:

- 7 Quizzes 10%
- First Paper (due April 19) 20%
- Second Paper (due May 17) 30%
- Final exam (June 7, 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 April 19 and/or May 17.
- 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, please 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 through TED, 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.