

Law 200: Law and Society

Syllabus: Fall 2018

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Class Meetings: Lecture, Mondays and Wednesdays, 12:00-1:20pm; Discussion, once per week (except week 1).

Office Hours: Wednesdays **by advance appointment**.

THE BASICS:

Course Description and Learning Objectives: We will approach law and society by diving into the debate over the living Constitution. Does the Constitution empower the courts to protect individual liberty against the views of the majority? How do Supreme Court justices interpret the scope of their power, and why do they disagree so vehemently with each other over the judicial role? How do their decisions affect our lives as individuals and as a society? How do we, as individuals or as a society, have an impact upon judicial decisions and help shape the meaning of the Constitution? We will consider such questions by learning how to read and write about key Supreme Court cases. We will consider the social context in which those cases arose, the stories of individuals who became a part of our constitutional history, and the resonance their stories have today. We will focus on the Constitution's guarantees, through the Fourteenth Amendment, that states will neither "deprive any person of life, liberty, or property without due process of law," nor deny to any person "the equal protection of the laws"; we will also consider the First Amendment's protection for the freedom of speech, and the Eighth Amendment's prohibition against cruel and unusual punishment. We will consider the importance of each of these constitutional commands for our own lives.

Course Requirements and Evaluation:

1. Attend all lectures and also attend one discussion per week.
2. Complete the reading prior to class, and contribute to class discussion.
3. Complete both the midterm (October 3) and the final examination.
4. Complete a 3 – 5 page analytical paper (750 minimum - 1,200 words maximum). A proposal identifying your topic is due Wednesday, October 31. Your paper is due Monday, November 19. Late papers receive 10% deduction for each 24-hour period past due.
5. Evaluation: Letter grades will reflect participation (attendance at lecture and discussion; classroom contributions; adherence to laptop and cellphone rules; improvement) (10 percent); midterm (25 percent); paper (30 percent); and final (35 percent).
6. **LAPTOPS** are **not** permitted in class, unless you obtain permission in writing from the instructor.
7. **CELLPHONES** must be put away during class, except when expressly permitted by the instructor.

*Required Reading:

1. Course Reader Vol. I (cases – weeks 3-6), Vol. II (cases – weeks 8-16), and Vol. III (articles, briefs, and other materials):

*** NOTE: Required Reading Is Noted on the Schedule Below with An Asterisk *.**

All Required Reading Should Be Completed Before The Date Shown.

Recommended Reading:

1. L. Greenhouse, *The United States Supreme Court: A Very Short Introduction* (2012).

SCHEDULE AND COURSE OVERVIEW:

Changes to the schedule, if any, will be posted on Blackboard and announced in class.

Week 1: Founding Principles

Aug. 20: Goals and Expectations

Aug. 22: The Majestic Generality of the U.S. Constitution and the Judicial Challenge

*J. Locke, *Second Treatise on Government*, paras. 95-99 (1689);

*The *Federalist Papers*, No. 78 (Hamilton) (1788);

*The Constitution of the United States, Article I, Sections 8, 9; Article II, Section 1 Cl. 5; Article III, Section 1 and Section 2 cl. 2; Article V; Amendments I, IV, IX, XIV Section 1, XIX, XXV.

Recommended reading:

L. Greenhouse, *The United States Supreme Court: A Very Short Introduction*, pp. 1-12.

Week 2: The U.S. Constitution: Dead or Alive?

Aug. 27: The U.S. Constitution: Dead or Alive?

*W.J. Brennan, Jr., *Speech On Constitutional Interpretation* (1985);

*A. Scalia, *Speech, Constitutional Interpretation the Old Fashioned Way* (2005);

* B. Cardozo, *The Nature of the Judicial Process*, pp. 161-80 (1921)

Recommended:

I. Kaufman, *What did the Founding Fathers Intend?* N.Y. Times Op-Ed (Feb. 23, 1986);

A. Scalia, *Speech, Judicial Adherence to the Text of Our Basic Law* (1996/2003);

N. Gorsuch, *Of Lions and Bears, Judges and Legislators, and the Legacy of Justice Scalia* (2016);

L. Greenhouse, *The US Supreme Court*, pp. 13-58.

Aug. 29: **Meyer v. Nebraska* (1923)

Week 3: Liberty, Equality, and Family Rights

Sept. 3: Labor Day Holiday – No Class

Sept. 5: **Pierce v. Society of Sisters* (1925); **Skinner v. Oklahoma* (1942)

Week 4: Marital Equality and Liberty

Sept. 10: **Loving v. Virginia* (1967); **Poe v. Ullman* (1961) (Harlan, J., dissenting (Part II.B))

Sept. 12: **Griswold v. Connecticut* (1965); **Eisenstadt v. Baird* (1972)

Week 5: Liberty and Reproductive Rights

Sept. 17: **Roe v. Wade* (1973); *R.B. Ginsburg, Some Thoughts on Autonomy and Equality In Relation to *Roe v. Wade* (1985);

Sept. 19: **Planned Parenthood v. Casey* (2003); **Whole Woman's Health v. Hellerstedt* (2016)

Recommended Reading:

M. Goodwin, Troubling Legislative Agendas: Leveraging Women's Health Against Women's Reproductive Rights, ACS Issue Brief (July 2017);

L. Greenhouse, The United States Supreme Court: A Very Short Introduction, pp. 72-82.

Week 6: The Constitutional Right to Same-Sex Marriage

Sept. 24: **Bowers v. Hardwick* (1986); **Lawrence v. Texas* (2003)

Sept. 26: **Obergefell v. Hodges* (2015)

Week 7: Review and Midterm

Oct. 1: **No Lecture: Discussion sections DO meet (for Week 6 discussion and midterm review)**

Oct. 3: **MIDTERM EXAM**

Week 8: Equality and Education

Oct. 8: **Brown v. Board of Education (Brown I)* (1954); **Brown v. Board of Education (Brown II)* (1955)

Oct. 10: **Cooper v. Aaron* (1959)

Week 9: Is There A Fundamental Right to a Basic Education?

- Oct. 15: **Milliken v. Bradley* (1974); **San Antonio Ind. School Dist. v. Rodriguez* (1973)
- Oct. 17: **Plyler v. Doe* (1982); *Complaint in *Gary B. v Snyder* (filed Sept. 2016) (pp. 1-17); *G. Stone, Are Detroit's Terrible Schools Unconstitutional? N.Y. Times, Op-Ed (Oct. 21, 2016).

Week 10: The Death Penalty – Cruel and Unusual Today?

- Oct. 22: *J.P. Stevens, On the Death Sentence (TNYRB, Dec. 2010)
- Oct. 24: **McCleskey v. Kemp* (1987)

Week 11: The Death Penalty – Cruel and Unusual Today?

- Oct. 29: **Roper v. Simmons* (2005)
- PAPER TOPIC DUE BY 12:00 pm NOON TODAY -
- Oct. 31: **Glossip v. Gross* (2015); *J. Rakoff, Will the Death Penalty Ever Die? (TNYRB June 2017)

Week 12: The Constitution and non-U.S. citizens

- Nov. 5: **Kleindienst v. Mandel* (1972)
- Nov. 7: **Kerry v. Din* (2015)

Week 13: Immigration and Executive Power

- Nov. 12: **Hawaii v. Trump* (pending 2018)
- Nov. 14: **Jennings v. Rodriguez* (2018)

Week 14: The First Amendment

- Nov. 19: **Texas v. Johnson* (1989);
- COMPLETED PAPER DUE BY 10:00 pm TODAY -
- Nov. 21: Thanksgiving Holiday, No Class

Week 15: Looking Forward, Reflecting Back....

- Nov. 26: **Brown v. Merchant Entertainment Ass'n* (2011); **Masterpiece Cakeshop Inc. v. Colorado Civil Rights Comm'n* (pending 2018)

Nov. 28: Reflections on Law and Society

FINAL EXAM: In class; Date TBD

REQUIRED ADVISEMENT:

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Part B, Section 11, “Behavior Violating University Standards” <https://policy.usc.edu/scampus-part-b/>. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct>.

Support Systems:

Student Counseling Services (SCS) - (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://engemannshc.usc.edu/counseling/>

National Suicide Prevention Lifeline - 1-800-273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. <http://www.suicidepreventionlifeline.org>

Relationship & Sexual Violence Prevention Services (RSVP) - (213) 740-4900 - 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://engemannshc.usc.edu/rsvp/>

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <http://sarc.usc.edu/>

Office of Equity and Diversity (OED)/Title IX compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://equity.usc.edu/>

Bias Assessment Response and Support

Incidents of bias, hate crimes and microaggressions need to be reported allowing for appropriate investigation and response. <https://studentaffairs.usc.edu/bias-assessment-response-support/>

Student Support & Advocacy – (213) 821-4710

Assists students and families in resolving complex issues adversely affecting their success as a student EX: personal, financial, and academic. <https://studentaffairs.usc.edu/ssa/>

Diversity at USC

Tab for Events, Programs and Training, Task Force (including representatives for each school), Chronology, Participate, Resources for Students. <https://diversity.usc.edu/>