voiding numerous such laws, especially in the fields of loyalty oaths,[541] obscenity and indecency,[542] and restrictions on public demonstrations.[543] It is usually combined with the overbreadth doctrine, which focuses on the need for precision in drafting a statute that may affect First Amendment rights;[544] an overbroad statute that sweeps under its coverage both protected and unprotected speech and conduct will normally be struck down as facially invalid, although in a non-First Amendment situation the Court would simply void its application to protected conduct.[545]

But, even in a First Amendment situation, the Court has written, "there are substantial social costs *created* by the overbreadth doctrine when it blocks application of a law to constitutionally unprotected speech, or especially to constitutionally unprotected conduct. To ensure that these costs do now swallow the social benefits of declaring a law 'overbroad,' we have insisted that a law's application to protected speech be 'substantial,' not only in an absolute sense, but also relative to the scope of the law's plainly legitimate applications, before applying the 'strong medicine' of overbreadth invalidation. . . . Rarely, if ever, will an overbreadth challenge succeed against

---

[541] *E.g.*, Cramp v. Board of Pub. Instruction, 368 U.S. 278 (1961); Baggett v. Bullitt, 377 U.S. 360 (1964); Keyishian v. Board of Regents, 385 U.S. 589 (1967). *See also* Gentile v. State Bar of Nevada, 501 U.S. 1030 (1991) (attorney discipline, extrajudicial statements).

[542] *E.g.*, Winters v. New York, 333 U.S. 507 (1948); Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952); Interstate Circuit v. City of Dallas, 390 U.S. 676 (1968); Reno v. ACLU, 521 U.S. 844, 870–874 (1997). In National Endowment for the Arts v. Finley, 524 U.S. 569 (1998), the Court held that a "decency" criterion for the awarding of grants, which "in a criminal statute or regulatory scheme . . . could raise substantial vagueness concerns," was not unconstitutionally vague in the context of a condition on public subsidy for speech.

[543] *E.g.*, Cantwell v. Connecticut, 310 U.S. 296 (1940); Gregory v. City of Chicago, 394 U.S. 111 (1969); Coates v. City of Cincinnati, 402 U.S. 611 (1971). *See also* Smith v. Goguen, 415 U.S. 566 (1974) (flag desecration law); Lewis v. City of New Orleans, 415 U.S. 130 (1974) (punishment of opprobrious words); Hynes v. Mayor of Oradell, 425 U.S. 610 (1976) (door-to-door canvassing). For an evident narrowing of standing to assert vagueness, *see* Young v. American Mini Theatres, 427 U.S. 50, 60 (1976).

[544] NAACP v. Button, 371 U.S. 415, 432–33 (1963).

[545] *E.g.*, Kunz v. New York, 340 U.S. 290 (1951); Aptheker v. Secretary of State, 378 U.S. 500 (1964); United States v. Robel, 389 U.S. 258 (1967); Zwickler v. Koota, 389 U.S. 241 (1967); Lewis v. City of New Orleans, 415 U.S. 130 (1974); Massachusetts v. Oakes, 491 U.S. 576, 581 (1989). *But see* Washington State Grange v. Washington State Republican Party, 128 S. Ct. 1184, 1190 (2008) (facial challenge to burden on right of association rejected "where the statute has a 'plainly legitimate sweep'").