

Politics 366—Constitutional Law: Rights and Liberties
Cornell College
Block 6 (2018 – 2019)

Instructor

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office: South Hall 304
office hours: 2:30 – at least 3:00 p.m., or by email appointment

Room and Meeting Times

South Hall 300
9:30 – 11:00 a.m.; 1:00 – 3:00 p.m. (M, Tu,Th)
9:30 – 11:30 a.m. (W, F)

Course Description, Learning Outcomes, and Educational Priorities and Objectives

The catalog's description for POL 353 is as follows: "Rights of individuals in America. The court's role in three broad areas: (1) criminal prosecution, (2) free expression, and (3) race and sex discrimination." Civil rights and liberties are guarantees of freedom from discriminating elements of society and overbearing government figures. These freedoms are often derived from constitutional provisions. As such, courts play a significant role in defining, expanding, and narrowing the scope of civil rights and liberties.

Students in this course will utilize tools of social-scientific and legalistic inquiry to think critically about positive questions relating to the development and protection of civil rights and liberties and normative implications of the evidence. Students who successfully complete the coursework for POL 366 will achieve the following learning outcomes:

- Can define and distinguish among civil rights and liberties.
- Can relate judicial outcomes (e.g., opinion content) to a variety of motivations and the greater political context.
- Can evaluate the scope of civil liberties and rights according to broader democratic principles.
- Can model an empirical approach to analyzing evidence about political phenomena through oral and written communication.

This course meets the Knowledge Educational Priority and Objective (EPO) by integrating and applying knowledge from a focused area of study, that of the role of civil liberties and civil rights in American politics, and by broadening knowledge for general education in other courses, especially the social sciences. It meets the Inquiry and Reasoning EPOs by modeling social-scientific and legal practices for evaluating and reasoning about contemporary questions from evidence. Finally, it meets the Communication and Citizenship EPOs through its emphasis on class discussion and group collaboration.

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Prerequisites

POL 172 or POL 262

Readings and Resources

Students should stay abreast of current events, which will often provide fodder for discussion and further application of course material. I recommend seeking out news from a variety of sources, including those that you may not consult otherwise. We will discuss good practices for being a discerning consumer of information.

Moodle

I post course materials on Moodle, including the syllabus, assignments, and presentations (after they have been given in class).

Required texts

Chemerinsky, Erwin and Howard Gillman. 2018. *Free Speech on Campus*. New Haven: Yale University Press.

Epstein, Lee and Thomas Walker. 2016. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 9th ed. Washington D.C.: Sage/CQ Press.

Grading and Graded Material

Grading scale

All assignments will be graded on a 100-point scale. Letter grades will be assessed on the following scale: A (93-100); A- (90-92); B+ (87-89); B (83-86); B- (80-82); C+ (77-79); C (73-76); C- (70-72); D+ (67-69); D (63-66); D- (60-62); F (59 and below).

Participation

Participation consists of attending class and asking and answering questions. I will keep a daily tally of participation, with a maximum of three points available per day. Students who earn 30 participation points will receive full credit; partial credit will be awarded as a proportion of participation points earned. Participation is worth 5% of the block grade.

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Discussion Leadership

Students will serve two turns as discussion leaders for a set of about five key cases listed on the calendar during Weeks 2 and 3. Leaders will be called upon during class to answer basic factual questions about the key cases and to offer their opinion. Discussion leaders are required to email the instructor their notes for each key case, including a very brief statement of the facts and the majority holding and rationale, prior to class. Each turn as leader is worth 7.5% of the block grade. Note: Leader assignments will be made by the end of Week 1.

Simulation

Simulation enables students to learn about processes by assuming roles and making decisions that take into account incentives that accord to those roles. To learn about a variety of processes relevant to Supreme Court decision making, students will simulate the experience of clerking for a justice in a real-life case.

Each student will be assigned a set of attributes (e.g., race/ethnicity, gender, law school, geography, religion) composing a biographical profile. On Day 12, each student will take part in a simulated discussion involving an actual Supreme Court case that has already been decided. The discussion will occur among a random assignment of students playing their roles and the instructor playing the role of a specific Supreme Court justice who wrote an opinion in the given case.

Students must bring hard-copy biographical essays of their clerks to class the morning that the simulation will be held. These essays must summarize each student's assigned profile and include detailed justification about how all attributes might shape attitudes toward the issues involved in the case and influence positions on key disputes and preferred outcomes.

Students assigned to the same justice will meet during class time. On the basis of the biographies, students will form alliances based on shared positions about their preferred outcomes and rationales. At least two alliances must be formed among each justice's clerks. Each alliance will prepare an oral presentation to be given in class in which each clerk gives a short summary of his or her preferred outcome and rationale for this position.

Students will be graded individually based upon the submitted biography and performance during oral presentations. The simulation is worth 5% of the block grade.

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Cornell College
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Paper and presentation

Students will analyze a recent case involving a civil right or civil liberty decided the U.S. Supreme Court. To become familiar with the issues and processes associated with that case, students will conduct research on the case's journey through the federal or state judicial hierarchy; listen to the justices' questioning during oral arguments; and analyze cases involving similar issues. This information will help form an evaluation of the majority opinion's holding and rationale. This assignment will help me evaluate your ability to locate and process information about court cases; your judgment in drawing reasonable conclusions from available evidence; and your skill at writing. Students will present their papers and be assigned to give feedback on a classmate's paper. The paper is worth 25% and the presentation/comments are worth 5% of the block grade.

Take-home exam

There is one take-home exam containing three short-answer questions. It will be given on Day 5, and is due in hard copy by noon on Day 6. The take-home exam is worth 10% of the block grade.

In-class exams

There are two closed-book exams containing multiple-choice and short-answer questions. An exhaustive list of potential short-answer questions will be distributed before each exam, and class time will be allocated to fielding questions. Exams will be worth 20% (student's highest scoring exam) and 12.5% (student's lowest scoring exam) of the block grade.

Policies

Cell phones and laptops

Use of cell phones in the classroom is strictly prohibited. Violation of this policy will result in loss of participation points for the day. Use of laptops is permitted only for looking up information that pertains to class discussion, and may not be used as a tool for taking notes.

Academic Honesty

Cornell College expects all members of the Cornell community to act with academic integrity. An important aspect of academic integrity is respecting the work of others. A student is expected to explicitly acknowledge ideas, claims, observations, or data of others, unless generally known. When a piece of work is submitted for credit, a student is asserting that the submission is her or his work unless there is a citation of a specific source. If there is no appropriate acknowledgement of sources, whether intended or not, this may constitute a violation of the College's requirement for honesty in academic work and may be treated as a case of academic dishonesty. The procedures regarding how the College deals with cases of academic dishonesty appear in The Catalogue, under the heading "Academic Honesty."

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Disabilities

Cornell College makes reasonable accommodations for persons with disabilities. Students should notify the Coordinator of Academic Support and Advising and their course instructor of any disability related accommodations within the first three days of the term for which the accommodations are required, due to the fast pace of the block format. For more information on the documentation required to establish the need for accommodations and the process of requesting the accommodations, see <http://www.cornellcollege.edu/academic-support-and-advising/disabilities/index.shtml>

Other Accommodations

If you have any other needs for accommodation, please let me know and we can make necessary arrangements.

Calendar

Day 1

- Introductions; Course Preliminaries; Watch *Muhammad Ali's Greatest Fight*

Day 2

- Complete discussion activity on Moodle by 11:45 a.m. (2.5% of block grade)
- Field trip to Drake Law School (meet at Commons Circle by 11:45; return to Cornell by approximately 7:30)

Day 3—The Judicial Process

- Discuss Chs. 1-2 in **EW** in entirety; Discuss Kerr. 2007. "How to Read a Legal Opinion." *Green Bag* 11(1): 51-63

Day 4—Selective Incorporation; The Second Amendment

- Discuss Chs. 3 and 9 in **EW** in entirety

Day 5—Freedom of Speech

- Discuss Villaseñor, John. 2017. "Views among college students regarding the First Amendment: Results from a new survey." *The Brookings Institute*; Discuss pp. 1-110 in **CG**

Day 6—Freedom of Speech

- Discuss pp. 111-159 in **CG**; Discuss Ch. 5 in **EW** (key cases: *Schenck*; *Gitlow*; *Brandenburg*; *O'Brien*; *Johnson*)

Day 7—Freedom of Speech and Press

- Discuss Ch. 5 in **EW** (key cases: *Chaplinsky*; *Cohen*; *Snyder*; *Tinker*); Discuss Ch. 6 in **EW** (key cases: *New York Times*; *Kuhlmeier*)

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Day 8—Boundaries of Free Expression; Free Exercise

- Discuss Ch. 7 in **EW** (key cases: *Sullivan*; *Roth*; *Miller*); Discuss Ch. 4 in **EW** (key cases: *Cantwell*; *Sherbert*; *Yoder*)

Day 9—Free Exercise; Establishment

- Discuss Ch. 4 in **EW** (key cases: *Employment Division*; *Everson*; *Lemon*)

Day 10—Exam #1

Day 11—Privacy

- Discuss Ch. 10 in **EW** (key cases: *Griswold*; *Roe*; *Casey*; *Lawrence*; *Obergefell*)

Day 12—The Fourth Amendment

- Discuss Ch. 11 in **EW** (key cases: *Katz*; *Safford*; *Terry*; *Mapp*); Simulate *Jardines*

Day 13—The Fifth Amendment; The Sixth Amendment; The Eighth Amendment

- Discuss Ch. 11 in **EW** (key cases: *Escobedo*; *Miranda*); Discuss Ch. 12 in **EW** (key cases: *Powell*; *Gideon*; *Batson*; *Gregg*)

Day 14—Discrimination by Race

- Discuss Ch. 13 in **EW** (key cases: *Plessy*; *Sweatt*; *Brown*; *Loving*; *Bakke*; *Grutter*)

Day 15—Discrimination by Gender

- Discuss Ch. 13 in **EW** (key cases: *Reed*; *Craig*; *Virginia*)

Day 16—Exam #2

Day 17—Papers are due at noon

Day 18—Presentations