

CIVIL LIBERTIES

The University of Texas at Austin
Government 357D (Unique 38160)
CTI 326L (Unique 30020)
UTC 4.112; T Th 3:30-4:45 p.m.

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Spring, 2023 Office Hours: Tues. 5-6:30

T.A.: Mr. Guillermo Perez
Office Hours: TBA

Prerequisites

Set by the Government Department: 6 hours lower division government courses.

General Description of the Course

This course is primarily a course in Constitutional interpretation that focuses on some of the rights and liberties guaranteed by the U.S. Constitution. Most of the attention is given to the First and Fourteenth Amendments, which involve issues of freedom of expression, freedom of religion, equal protection, and fundamental liberties. Little attention is given to other rights.

The course is designed to familiarize students with constitutional approaches and concepts related to certain liberties. Presidents, governors, legislators, law enforcement officials, and many others engage in constitutional interpretation. The primary participants for our purposes, however, have been judges; therefore, the course concentrates on what judges have said the Constitution means, and how they came to such conclusions. One objective of the course is for the student to learn what the Supreme Court has said about certain parts of the Constitution and to examine the implications of the rulings for the American polity. Students should become comfortable with legal analysis and doctrine so that they can evaluate intelligently the interpretations of the justices and ask the questions that students of politics should ask. Prominent among such questions are those concerned with the proper role of courts and judges in the American political system. Also, students should begin to develop their own beliefs about the protected liberties.

Another objective of this course is to improve reasoning and communication skills. As in most courses, good writing is demanded, but it is also important to develop the capacity to think and speak on one's feet. Engaging in constitutional reasoning can assist in developing intellectual precision and political persuasiveness. Mastering the use of language, orally and in writing, increases the ability to think and communicate clearly. Moving toward such mastery is a vital part of education.

The course requires a substantial time commitment. The time required varies greatly over the course of the semester, and it varies for reasons described below. As such, it is hard for one to plan ahead.

Warning

Many readings and discussions will involve words or scenarios that are offensive or hurtful because that is often what civil liberties debates are often about. For example, the First Amendment is seen to protect speech and behavior that is offensive to many. I believe that it is important not to intellectualize or make our discussion so academic that we can avoid coming to

terms intellectually and emotionally with language or situations that some people argue the First Amendment or Fourteenth Amendment should protect. We will confront words or actions in all their ugliness so as not to allow us to dodge the implications of protecting such speech. For example, students will see videos such as “Eyes on the Prize” and read material where epithets are used to demean others based on their race, gender, sexual orientation, religion, and other factors. Likewise, we cannot discuss the constitutional debates about what constitutes obscenity by simply saying “you know it when you see it.” Discussions about topics such as abortion, religion, and other areas also may cause discomfort.

Format of the Course

Constitutional interpretation lends itself to dialog between professor and student and among students. There are few lectures. I use a combination of the Socratic and case methods. This requires students to come to class prepared and to listen to one another. Too often, students do not benefit from this style of teaching because they ignore the comments of fellow students. The method assumes that, instead of lecturing, I am making points through discussion with students. When your colleagues are making important points, I do not have to. It is also an important skill to be able to learn to separate the wheat from the chaff.

Students are required to attend class and participate. Repeated lack of preparation or absences will hurt one’s grade. The teaching method presumes that students heard prior discussions. When a student did not hear earlier discussions and then participates, it often wastes the time of others. I call on students and expect them to be well-prepared. If one is not prepared, one must place a note on the lectern before class begins. Being prepared does **not** mean that one must fully understand the material or have the “right” answers; it means that one has read and thought carefully about the material. It is in one’s long-term interest to prepare thoroughly for each class because the material is cumulative, and the workload in this course increases dramatically as the semester proceeds.

Computers, cell phones, and other non-medical devices must be put away and may not be used during the class, which includes note taking. Electronic devices are not compatible with the teaching method. This also means not glancing at cell phones or other distractions. You must bring your casebook to class.

Exceptions to the policies denoted in this syllabus are rare and must be approved by me in advance unless there is an emergency. We will discuss this more on the first day of class.

Readings

- *Constitutional Law, 21st ed.*, Noah Feldman and Kathleen Sullivan eds., Foundation Press. The book is also used in my “Constitutional Interpretation” class and by other professors. [The 20th and 19th editions are permitted, but using them will require some extra effort to read material that is not included in the latest edition.] You may not use electronic versions.
- Additional readings will be required that will be on reserve or posted on Canvas.
- You must bring your casebook to class.

Assignments will be given each class period from the reading list. The next day’s assignment depends upon how far we get in any given day; therefore, it is impossible to know specific daily assignments in advance. If you have to miss class, it is your responsibility to find

out what was covered and what has been assigned *from a classmate*. **Do not contact me or the TA for this purpose. Get to know your fellow students.** Study groups are encouraged.

Evaluation

- Midterm examination (≈25%). March 2nd. Multiple Choice and Essay
- Group Project (≈25%). Students will participate in moot courts. A hypothetical situation will be given and each group will prepare a brief and participate in an oral argument. **The courts will be held April 4th and 5th. Attendance is mandatory all evenings. Exceptions are rarely granted.** More details will be given in class.
- Final examination (≈50%). Multiple Choice and Essay. Check official exam schedule for date and time. Early or late exams are rarely allowed.
- Class attendance and participation are required and may affect a grade positively or negatively. (See attendance and participation statements above)
- Plus and minus grades will be used.

Communications

I encourage students to come to my office hours for help or just to chat. I like getting to know you. Students should *not* use e-mail as a way of having a conversation with me about substantive issues--that is what office hours and class discussion are for. E-mail may be used for administrative reasons. **Though I will sometimes contact you via Canvas, always send emails directly to me rather than via Canvas unless I direct otherwise.** Always write on the subject line or at the top of the message: **CIV LIB (not CON LAW.)** I have 2 email addresses but they go to the same account. Therefore you may always reply or initiate an email to either address: hwpererry@mail.utexas.edu or hpererry@law.utexas.edu The TA may have a different policy.

Important Restrictions:

Sharing of Course Materials is Prohibited. No materials used in this class, including, but not limited to, lecture hand-outs, videos, assessments (quizzes, exams, papers, projects, homework assignments), in-class materials, review sheets, etc., may be shared online or with anyone **outside of the class** unless you have my explicit, written permission. Unauthorized sharing of materials promotes cheating. It is a violation of the University's Student Honor Code and an act of academic dishonesty. I am well-aware of the sites used for sharing materials, and any materials found online that are associated with you, or any suspected unauthorized sharing of materials, will be reported to Student Conduct and Academic Integrity in the Office of the Dean of Students. These reports can result in sanctions, including failure in the course.

Official University Policy (excerpts)

Academic Dishonesty

Academic dishonesty will lead to failure of the course and other University disciplinary action. See *General Information Catalog*:

Scholastic or academic dishonesty includes, but is not limited to, cheating, plagiarism, collusion, falsifying academic records, and misrepresenting facts. More information about [academic dishonesty](#) is given in Appendix C.: Sec 11. Note particularly: (d) “Plagiarism” includes, but is not limited to, the appropriation of, buying, receiving as a gift, or obtaining by any means material that is attributable in whole or in part to another source, including words, ideas, illustrations, structure, computer code, and other expression or media, and presenting that material as one’s own academic work being offered for credit.

The U.T. Honor code is as follows: The core values of the University of Texas at Austin are learning, discovery, freedom, leadership, individual opportunity, and responsibility. Each member of the University is expected to uphold these values through integrity, honesty, trust, fairness, and respect toward peers and community.

Accommodation for Religious Holidays

By UT Austin policy, you must notify me of your pending absence at least fourteen days prior to the date of observance of a religious holy day. If you must miss a class, an examination, a work assignment, or a project in order to observe a religious holy day, you will be given an opportunity to complete the missed work within a reasonable time after the absence

Disabilities

The University of Texas at Austin provides upon request appropriate academic accommodations for qualified students with disabilities. For more information, contact the Division of Diversity and Community Engagement, Services for Students with Disabilities, 512-471-6259; <http://www.utexas.edu/diversity/ddce/ssd/>.

Emergencies

Behavior Concerns Advice Line (BCAL): 512-232-5050

Suicide and Crisis Lifeline 988

Links to information regarding emergency evacuation routes and emergency procedures can be found at: [http:// www.utexas.edu/emergency](http://www.utexas.edu/emergency) .

The following recommendations regarding emergency evacuation from the Office of Campus Safety and Security, 512-471-5767, <http://www.utexas.edu/safety/>:

Familiarize yourself with all exit doors of each classroom and building you may occupy. Remember that the nearest exit door may not be the one you used when entering the building.

Students requiring assistance in evacuation shall inform their instructor in writing during the first week of class.

In the event of an evacuation, follow the instruction of faculty or class instructors. Do not re-enter a building unless given instructions by the following: Austin Fire Department, The University of Texas at Austin Police Department, or Fire Prevention Services office.

Title IX Reporting

Beginning January 1, 2020, Texas Senate Bill 212 requires all employees of Texas universities, including faculty, to report any information to the Title IX Office regarding sexual harassment, sexual assault, dating violence and stalking that is disclosed to them. Texas law requires that all employees who witness or receive any information of this type (including, but not limited to, writing assignments, class discussions, or one-on-one conversations) must be reported. **I am a “Responsible Employee” and must report any Title IX related incidents** that are disclosed to me.

Although graduate teaching and research assistants are not subject to Texas Senate Bill 212, they are still mandatory reporters under Federal Title IX laws and are required to report a wide range of behaviors we refer to as sexual misconduct, including the types of sexual misconduct covered under Texas Senate Bill 212. The Title IX office has developed supportive ways to respond to a survivor and compiled campus resources to support survivors.

If you would like to speak with someone who can provide support or remedies without making an official report to the university, please email advocate@austin.utexas.edu. For more information about reporting options and resources, visit <http://www.titleix.utexas.edu/>, contact the Title IX Office via email at titleix@austin.utexas.edu, or call 512-471-0419.