

INTRODUCTION TO LAW AND SOCIETY

Political Science 226

Spring Semester, 2021



"Even when laws have been written down, they ought not always remain unaltered."-- Aristotle, Politics, 322 B.C.

"The law must be stable, and yet it cannot stand still."--Roscoe Pound, Introduction to the Philosophy of Law, 1922

Course Professor

Dr. Richard J. (Rick) Hardy—Professor of Political Science

Class Hours: 1:00 – 1:50 p.m., MWF, Morgan Hall, Room 306

Office Hours: 2:00 - 3:30 p.m., MW, 8:00 – 8:50 F, or by Appointment*

Professor's Office: 445 Morgan Hall

Email: RJ-Hardy@wiu.edu Office Phone: 309-298-1534

**We live in difficult times. Because I am in the “high risk” category regarding Covid-19, my physician strongly recommends that, if at all possible, I avoid one-on-one meetings in my office. I will still hold office hours and be available for phone calls during those times. And, of course I will return emails in a prompt manner. RJH*

"Just because something is normal in a culture does not make it ethically sound. Normal merely means there is a social consensus that it is held as self-evidently "true", predominantly precluding further critical examination of the matter." — Kevin Focke

Course Description

The United States is governed by a complex system of laws. These laws stem from many sources and take many forms. Among the major sources of American jurisprudence are natural law, Roman law, and British common law. The types of laws include constitutional law, equity, common law, statutory law, administrative law, international law, civil law and criminal law. To be effective, laws must reflect the society and culture in which they are spawned. Law and society should dovetail. “Good” laws ideally reinforce the cultural values and morals of society. But nothing ever stays exactly the same. Society is constantly changing, and as it does, so does the demand for altering the law. During transitional periods there are often clashes between diametrically opposed segments of our society regarding the “proper” direction of the law. Witness the historical clashes over slavery, immigration laws, women’s rights, employment laws, gun laws, and privacy rights, political symbolism, and the recent “cancel culture” movement.

The purpose of this course is to examine the complex interrelationship between law and society. This course is geared towards students interested in history, sociology, criminal justices, political science, and especially those interested in attending law school. As you can see from the outline, the course is divided into two parts. Part I will be devoted to tracing the so-called “roots” of American jurisprudence and distinguishing between the various types of law that influence our everyday lives. We will also examine briefly, the American justice system and distinguish between the variety of courts and judges that adjudicate disputes. In Part II, we will analyze a series of “provocative questions” and “evolving answers” with respect to civil rights and civil liberties. Topics include: Native Americans, slavery, citizenship, property rights, age and disability discrimination, political symbolism, patriotism, police powers, cancel culture, gender discrimination, gun rights, euthanasia, abortion rights, capital punishment, hate speech, association rights, technocracy, marriage, family rights, and life-style rights. Please note: We will **not** be able to cover all of the topics listed in Part II of the course. Hence, your professor will leave it up to the class to determine what topics you most want to study. **Each student will therefore get to select at least one of the topics he or she is most interested in studying.**

Readings

“Education is the passport to the future, for tomorrow belongs to those who prepare today.”—Malcolm X

The *required* reading will be drawn primarily from the following sources: 1) *Textbook*. Steven E. Barkan. Law and Society: An Introduction. 2nd Edition. Routledge, 2018. Paperback. ISBN 9781138299610. This is available in the University Book Store and may be purchased online from whatever vender you choose. 2) *Class Handouts*. You will receive periodic handouts relating to the subjects studied—relevant facts, diagrams, outlines and updates. 3) *Supreme Court Cases*. We will also study a wide range of cases in U.S. Constitutional law. Most of the cases will be presented by your professor via lecture. However, each student will also be expected read and research a specific case (see details below). These cases can be found easily on the web.

Course Format

“No one can teach, if by teaching we mean the transmission of knowledge, in any mechanical fashion, from one person to another. The most that can be done is that one person who is more knowledgeable than another can, by asking a series of questions, stimulate the other to think, and so cause him (her) to learn for himself (herself).”
--Socrates

Although your professor will lecture frequently on key elements and cases, this course, as in law school, will primarily employ the case or Socratic method of study. At the outset of the semester, each student will be assigned a specific case to read, analyze and brief for a particular day. During the day for which the case is assigned, the student will orally recite, analyze and discuss his or her assigned case. Each student should be prepared to answer questions posed by the professor and members of the class. At the conclusion of the class, the student will submit the written case brief. Both the oral presentation and the written case brief will count toward your grade. (See a breakdown of course points below.)

“Society as a whole benefits immeasurably from a climate in which all persons, regardless of race or gender, may have the opportunity to earn respect, responsibility, advancement and remuneration based on ability.”
--Sandra Day O’Connor, 1990

Briefing Cases

Briefing is an essential tool for understanding constitutional law. As its name implies, a brief is a one- or two-page synopsis of each case studied. While there are many ways to brief a case, here is a suggested outline:

- 1) **Case.** Write the case name, year, and citation at the top of the page. While it is not necessary to memorize the dates, such information can help put each case in historical perspective. The citations are useful if you desire to scrutinize the entire opinion online or in a law library.
- 2) **Background.** Whenever possible it is important to record any significant events leading up to the case. Events could include wars, depressions, assassinations, social movements, political dissent, or religious movements. An historical setting will often add clarity and put the case in perspective to the decision.
- 3) **Facts.** Write a short paragraph or two about the events and how they unfolded. Who are the litigants? What relief is sought? It will have more meaning if you put it in your own words.
- 4) **Questions.** Identify the central question or questions of law raised in the case. Most often the questions are raised in the case itself; sometimes you must phrase the question yourself. Also be aware that many cases involve multiple issues, so it is advisable to remember where the case fits the course outline.
- 5) **Ruling.** How did the Court decide the above questions? Was the vote (e.g., unanimous, 8 to 1, 5 to 4, etc.)? While it is not necessary to memorize the divisions, such splits can often portend future cases. For example, a badly split court may signal that this controversy will likely appear again. Conversely, a unanimous decision will send a strong message discouraging future litigation.
- 6) **Majority opinion.** Specify who wrote the majority opinion and succinctly note the reason. (Sometimes this is difficult to do, especially with the early decisions which rely upon a different style of writing.)
- 7) **Other opinions.** Are there any concurring or dissenting opinions? If so, identify who wrote them and summarize their arguments. It is not uncommon for a persuasive minority opinion in one decision to become the basis for a majority opinion at a later time.
- 8) **Significance.** Why is the case important? What doctrines or principles of law does the case establish? How does the decision fit into the outline of the course? What was its social or political significance of the case?

In sum, a brief is merely a tool to help you learn the cases, and the better the tool, the easier your task will be.

*"To make laws that man cannot, and will not obey, serves to bring all laws into contempt."
-- Elizabeth Cady Stanton, Address, 1861*

Class Participation

Class participation is important and will count for 100 total points or 20 percent of the course grade. More specifically, the class participation grade consists of four components: 1) Class Discussion, 2) Case Presentation, 3) Case Briefing, and 4) Class Attendance.

Class Discussion. "College is not a sanctuary from responsibility!" Every student is encouraged and expected to contribute to class discussion. As noted earlier, oral examinations occur daily and continuously. Hence, when called upon in class for input to the discussion, you are in fact being examined. Discussion grades, of course, are relative. A person who is always prepared and takes an active part in class discussion will obviously earn higher marks than a student who is ill prepared and rarely interacts with the class. **Class discussion will count for 25 points.**

Case Presentation. As noted above, each student will be assigned to present a Supreme Court case that is not found in the textbook. Virtually every assigned case can be downloaded from the web. It is up to the student to read the entire case, present it to the class on the assigned day, and field questions concerning the assigned case. **Case presentation is worth 25 points.**

Written Case Brief/Analysis. In addition to the oral case presentation, each student will also submit a written case analysis of that case on the day that it is assigned. The written case brief and analysis should be at least one, but not more than two pages long. It must be typed, single-spaced, and follow the format described on page 3 of this syllabus. **The written analysis is worth 25 points.**

Attendance. This is not a correspondence course. Attendance will be taken daily. Of course, there are times when you cannot attend, due to illness or family emergencies. Just keep your professor posted. Excessive absences will jeopardize your grade. **Class attendance is worth 25 points.**

Examinations

There will be three "take-home" examinations. Each examination will be disseminated at least one week before it is due. **Examination #1 will be due (hardcopy) on Friday, February 26 at 1:00 pm, Examination #2 will due (hardcopy) on Wednesday, March 31 at 1:00 pm, and Examination #3 will be on due on Wednesday, May 5 at 1:00 pm.** You may email me your final exam to RJ-Hardy@wiu.edu on or before that date. Each examination will cover approximately one-third of the material in the course, including assigned readings and judicial decision.

Makeup Examination Policy

If, for some valid reason (e.g. illness, death in the family, or open-heart surgery), you are unable to complete the examination at the scheduled time, then you should notify your professor in advance of the examination. Leave a message with the Political Science office (298-1055) or use e-mail (RJ-Hardy@wiu.edu). Failure to apprise us of your plight and produce the necessary documentation for your excuse will result in an "F" for that examination. There will be no exceptions to this rule. All make-up examinations must be taken within a "reasonable" time

(usually one week) after returning to class. Finally, students taking make-up exams may not take advantage of possible class curves given on regularly scheduled examinations. Why? Because you have more time to study and you are not taking the same examination as the rest of the class. To give you curve points would simply not be fair.

Position Paper

“It is doubtful that any man (person) could put his full thought to any subject until he writes about it.”—Cicero

Students are expected to write a research based position paper worth 100 points. The topic of the paper should be based on a current controversial issue that enables you to analyse it using the concepts we study in class relating to law and society. Topics could include the school vouchers, pandemic restrictions, gender equality, police training, drug laws, age discrimination, speech codes, freedom of assembly, right to bear arms, privacy rights, polygamy or whatever you choose. Please do not submit a paper or topic that you have submitted in another class. Do something different! Please select a topic by February 5 so that you can begin your research. The paper should include: *1) An introduction describing the problem and how you intend to address it. 2) A section describing the history of the issue, including important events, clashes, laws or court decisions. 3) A section containing support for a policy or law dealing with the issue. 4) A section describing the opposition to that policy regarding that policy or law. 5) Your position and remedy for the issue at hand, justifying your position. And, 6) a list of references (whatever citation style you use is fine).* This paper should be typed, double-spaced, well organized, grammatically correct, and at least 6 but no more than 12 pages long. Again, the paper is worth 100 points and will be due on or before May 5, 2021.

Summary of Course Points

Participation.....	100 points
Class Discussion....	25 points
Oral Presentation....	25 points
Written Case Brief...	25 points
Class Attendance.....	25 points
Examination #1	100 points
Examination #2	100 points
Examination #3	100 points
Position Paper.....	100 points
TOTAL POINTS....	500 points

“It takes courage to set priorities because doing so in an admission that American policy cannot be all things to all people—or rather to all interest groups.”—U.N Ambassador Condoleezza Rice

Grading

*"Would you say that all men are equal in excellence, or is one man better than another?"
--Plato, The Republic, 370 B.C.*

In sum, grades will be based on 500 total points. Western Illinois University now uses plus-minus grading. Because all quizzes and examinations are adjusted or "normally curved" as the semester progresses here is a convenient method of calculating your grade: Students are required to earn at least 450 total points (90%) to get an "A-" grade, at least 400 total points (80%) to get a "B-" grade, at least 325 total points (65%) to get a "C-" grade, and at least 250 total points (50%) to get a passing "D-" grade. These are the standard "breaks" for determining letter grades. Of course, within each category there will also be additional grading. Final grades will range from A+, A, A-, B+, B, B-, C+, C, C-, D+, D, D-, F. Over the years approximately 85 percent of the class has earned C or better in the course. Finally, while there may be some "extra credit" projects, do not expect to "negotiate" with your professor for a higher letter grade. The only justification for altering a final grade is an error in computation.

<u>Cutoff</u>	<u>Point Range</u>	<u>Final Grade</u>
97%	485-500	A+
94%	470-484	A
90%	450-469	A-

87%	435-449	B+
84%	420-434	B
80%	400-419	B-

75%	375-399	C+
70%	350-374	C
65%	325-349	C-

60%	300-324	D+
55%	275-299	D
50%	250-274	D-

49%	000-249	F

Students' Rights and Responsibilities

"College is not a sanctuary from responsibility."—R.J. Hardy

Disabilities and Accommodations. "In accordance with University Policy and the Americans with Disabilities Act (ADA), academic accommodations may be made for any student who notifies the instructor or such need. For the instructor to provide the proper accommodation(s) you must obtain documentation of the need for such accommodation(s) through the Disability Resource Center and

provide it to the instructor. It is imperative that you take the initiative to bring such needs to the instructor's attention, as he/she is not legally permitted to inquire about such particular student needs. Students who may require special assistance in emergency evacuations (i.e., fire, tornado, etc.) should contact the instructor as to the most appropriate procedures to follow in such an emergency. Contact the Disability Resource Center at 309-298-2512 for additional services." For more information on and current university policy on these situations, please consult a campus webpage at <http://www.wiu.edu/studentlife/> or <http://www.wiu.edu/drc>.

"The price of greatness is responsibility."—Sir Winston Churchill

Academic Dishonesty. Academic dishonesty will not be tolerated! Anyone who plagiarizes (submitting work written by another person without proper attribution), cheats on an examination (looking off of another's answer sheet, copying someone else's words, writing answers on one's arms, glancing at notes under a coat or a seat, etc.), knowingly assists another student to cheat (writing answers boldly, passing notes, whispering answers, etc.), allows another to take his or her examination, sneaks any part of a test booklet out of the classroom or who has unauthorized possession of an examination will be dealt with severely. Academic dishonesty will result in disciplinary action, and all tainted examinations and assignments will adversely affect the student's grade. The university policies on integrity are found on <http://www.wiu.edu/provost/students/> and <http://www.wiu.edu/policies/acintegrity.php>.

***"I'm a guy who is easy to get along with, and I'll put up with a lot of things. But not dishonesty."
--Scottie Pippen, Chicago Bulls***

Marketplaces of Ideas. American universities should be "marketplaces" for the exchange of ideas. Western Illinois University is no exception. It is only by being exposed to many perspectives and being able to engage in civilized discussions can we hope to be truly educated on a given subject.

"It is impossible for ideas to compete in the marketplace if no forum for their presentation is provided or available."—Thomas Mann

"The best test of truth is the power of the thought to get itself accepted in the competition of the market..."—Oliver Wendell Holmes, Jr.

"A moral monopoly is the antithesis of a marketplace of ideas."—Thomas Sowell

Respect for Others' Opinions. This university is comprised of students from varied backgrounds and perspectives. You have a right to speak out on issues that you feel strongly about. And so do others who may disagree with you. *Again, please be respectful of others' opinions, even if those views do not comport with yours.*

***I'm not concerned
with your liking or
disliking me. All I ask
is that you respect me
as a human being.
-
Jackie Robinson
www.LUVZE.com***

Course Outline

“No law perfectly suits the convenience of every member of the community; the only consideration is, whether upon the whole is be profitable to the greater part.”—Livy, History of Rome, c10 BC

I. The Nature of the Law

A. Course Introduction and Quick Overview

Read: This Course Syllabus and Bring this Course Outline to Class Every Day!

“Good law means good order.”—Aristotle, Politics c322 BC

1. Welcome and Introductions
2. Review of the Syllabus
3. Course Expectations
4. Assignments, Attendance, Participation, Examinations, Grading
5. Taking Notes—Clarification and Tips
6. Exchanging Contact Information with Classmates
7. Questions and Answers

B. Government, Politics, Society and the Law

Read: Hardy—“Axioms Regarding Law, Society and Politics” (handout)

“Law is a pledge that citizens of a state will do justice to one another.”—Aristotle, Politics, c322 BC

1. **The Substance: Axioms Regarding the Nexus of Law and Society**
 - a. Nature of the State
 - b. Function of Government
 - c. Role of Politics
 - d. Cultural Norms
 - 1) Folkways
 - 2) Mores
 - 3) Taboos
 - e. Law Reflects Culture Norms—Blue Laws, McGowen v. Maryland (1961)

“If a state, or nation, has laws it will not enforce for political reasons, it mocks both the law and politics, to say nothing of the cultural order.”—Cal Thomas

2. **The Political Process: Never-Ending Quest for Societal Equilibrium**
 - a. Private Problems
 - b. Social Problems
 - c. Public Issues—Conflict, Scope, Intensity
 - d. Winner and Losers—Privatization and Socialization of Conflict
 - e. Public Agenda—What Society Deems Important
 - f. Government Agenda—What the Government Chooses to Address
 - g. Laws and Public Policy—Government Action or Inaction
 - h. Feedback—Reactions to Laws and Public Policy

C. The Functions of Law

Read: Hardy—"The Rule of Law" (handout); Barkan—Chapter 2

"Good laws means good order."—Aristotle, *Politics*, c322 BC

"Fidelity to the public requires that the laws be as plain and explicit as possible, that the less knowing may understand, and not be ensnared by them, while the artful evade their force."—Samuel Cooke

1. Adjudicate Disputes
2. Render Justice
3. Establish Certainty and Predictability
4. Reinforce Morality

D. The Roots of American Jurisprudence

Read: Hardy—"The Roots and Branches of Law" (handout)

"The life of the law has not been logic, but experience."-- Oliver Wendell Holmes, *The Common Law*, 1881

"Laws too gentle are seldom obeyed; to severe, seldom executed." -- Benjamin Franklin

1. Natural Law
2. Statutory or Civil Law
3. Common Law
4. Equity
5. Constitutional Law

E. The Branches of Law--Classification and Types of Law

Read: Barkan—Chapter 3

"There are in nature certain fountains of justice, whence all civil laws are derived but as streams"

--Sir Francis Bacon, 1605

"No freeman shall be taken, or imprisoned, or outlawed, or exiled, or in any way harmed, nor will we go upon him nor will we send upon him, except by the legal judgment of his peers or by the law of the land."

—Magna Carta, Clause 39, 1215

1. Private Law (also called *Civil Law*)
 - a. Property
 - b. Contracts
 - c. Torts
 - d. Domestic Relations
2. Public Law
 - a. Constitutional Law
 - b. Criminal Law
 - c. Administrative Law
 - d. Military Law
 - e. International Law

F. Fundamentals of American Jurisprudence

Read: Barkan—Chapters 8 and 9, Hardy’s handouts

“National injustice is the surest road to national downfall.”—William Gladstone, 1878

*“Justice will not be served until those who are unaffected are as outraged as those who are.”
--Benjamin Franklin*

*“The Court is most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or design of the Constitution.”
—Associate Justice Byron R. White, 1986*

1. **Jurisdiction** (*Read: Hardy’s handouts on Jurisdiction and Courts*)
 - a. **Federal Jurisdiction**
 - b. **State Jurisdiction**
2. **Court Structure**
 - a. **Federal Courts**
 1. **United States Supreme Court**
 2. **Federal Courts of Appeal**
 3. **Federal District Courts**
 4. **Legislative Courts**
 - b. **State Court Systems**
 1. **State Supreme Courts**
 2. **State Courts of Appeal**
 3. **State Trial Courts**
 4. **Specialized Courts (Juvenile, Probate, Small Claims, etc.)**
3. **Legal Training**
 - a. **Law Schools**
 1. **Types of Law Schools**
 2. **Admission Requirements—LSAT, Grades, Civic Engagement**
 3. **Curriculum**
 4. **The Bar**
 - b. **Judges**
 1. **Appointment of Judges**
 2. **Election of Judges**
 3. **The Missouri Plan**

“We are under a Constitution, but the Constitution is what the judges say it is, and the judiciary is the safeguard of our liberty and of our property under the Constitution.”—Chief Justice Charles Evans Hughes, 1907

“Certain other societies may respect the rule of force—We respect the rule of law.”—President John F. Kennedy

Special Note Regarding Part II: The following pages of this outline contain an amalgam of relevant cases and controversies, broken down by topics. As noted above, we cannot cover all the topics. Hence, it will be up to the class to pick out the topics that most interest them. Each student may select at least one topic for the class to study. The remaining topics, provided we have time, will be selected by your professor. *“You must choose, but choose wisely.”*

II. Societal Change and Evolving Constitutional Rights

A. Political Culture, Nationalism and Patriotism *Read: Barkan—Chp. 6*

“National unity is the basis of national security...Conscientious scruples have not...relieved the individual from obedience to a general law not aimed at the promotion or restriction of religious beliefs...”—Associate Justice Felix Frankfurter, Minersville v. Gobitis, 1940

“Patriotism is not a short and frenzied outburst of emotion, but the tranquil and steady dedication of a lifetime”—Adlai Stevenson II

“Patriotism is when love of your own people comes first; nationalism, when hate for people other than your own come first.”—Charles de Gaulle

“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”—Associate Justice Robert Jackson, West Virginia v. Barnette (1943)

“As a former NFL player, I am one American who will have nothing to do with any NFL team that cannot find the corporate courage to stand for the millions of courageous past great Americans whose sacrifice gave meaning to our flag and national anthem and to the millions upon millions who still dream to come to its free shores.”—Congressman Burgess Owens

“Players who take a knee during the national anthem do so to protest injustice across the country—fulfilling a patriotic duty to never accept injustice, but to call it out when we see injustice.”—Ayanna Pressley

“To survive in peace and harmony, united and strong, we must have one nation, one flag.—Pauline Hanson

“The government is merely a servant...it cannot be its prerogative to decide who is a patriot and who isn't. Its function is to obey orders, not originate them.”—Mark Twain

Paramount Questions: What is political culture? What is nationalism? What is patriotism? Why are political symbols, such as flags and national anthems, so important to society and a nation? Should revered symbols be protected under law?

1. The Nature of Symbols
2. History of the Star Spangled Banner
3. History of the Pledge of Allegiance
4. Minersville v. Gobitis (1940)
5. West Virginia v. Barnett (1943)
6. Texas v. Johnson (1989)
7. To Stand or Kneel, Colin Kaepernick & BLM—Actions and Reactions

B. Historical Monuments and Cancel Culture

“We live by symbols, and what shall be symbolized by any image of the sight depends on the mind of the man who sees it.” – Associate Justice Oliver Wendell Holmes, Jr.

“In war, the first thing that goes, when you try to take over culture, is statues.”—Jonathan Majors

“Civil government cannot let any group ride roughshod over others simply because their consciences tell them to do so.”—Associate Justice Robert H. Jackson

“Can someone explain why it appears the Lincoln statue was toppled in Portland? The Pyramids of Giza made under the coercion from the evil Pharaohs were not very woke...I think we can all agree the Pyramids should be torn down immediately.” —Sean Ono Lennon, 2010

“Once a government is committed to the principle of silencing the voice of opposition, it has only one way to go, and that is down the path of increasingly repressive measures, until it becomes a source of terror to all its citizens and creates a country where everyone lives in fear.”—President Harry S Truman, 1950

“Confederate statues belong in a historical museum, not in a place of honor.”—Senator Bill Nelson

“Mobs in the street tearing down Ulysses S. Grant statues is really a chilling sight.”—Thomas Chatterton Williams

No statue for the vanquished!”—Charles de Leusse

Paramount Questions: Why are political monuments so important to a political system? Who should decide what monuments are displayed or removed? After whom should we name schools, streets, parks, museums and buildings? Do buildings that are tied to religion violate the Establishment Clause of the Constitution? Should one coalition of citizens be able to cancel other’s freedom of expression?

1. **Van Orden v. Perry (2005)**
2. **Pleasant Grove City v. Summum (2009)**
3. **Walker v. Texas Sons of the Confederacy (2015)**
4. **International Keystone Knights v. Georgia Depart. of Transportation (2016)**
5. **Carlos Moore v. Bryant (2016)**
6. **American Legion v. American Humanist Association (2019)**
7. **Gregory v. Northam (2020)**

C. Free Speech—Fighting Words, Hate Speech, Speech Codes, Safe Spaces

“When debate is lost, slander becomes the tool of the loser.”—Socrates

“I may disagree with what you say, but I will defend to the death your right to say it.”—Voltaire

“Whoever would overthrow the liberty of a nation must begin by subduing the freeness of speech.”—Benjamin Franklin

“If we do not believe in freedom of speech for those we despise, we do not believe in it at all.”
—**Norm Chomsky**

“To compel a man to furnish funds for the propagation of ideas he disbelieves and abhors is sinful and tyrannical.” —**Thomas Jefferson**

“If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought, not free thought for those who agree with us, but freedom for the thought that we hate.”—**Associate Justice Oliver Wendell Holmes, Jr.**

Paramount Questions: Should there be limits to “free speech”? If so, what are those limits? What are “fighting words”? Should and can government regulate “hate speech”? Can public colleges establish and enforce “speech codes”? If so, who should determine what can and cannot be said—students, faculty, administration, governing boards? What are “safe spaces” and what is their purpose?

1. **Chaplinsky v. New Hampshire** (1942)
2. **Beauharnais v. Illinois** (1952)
3. **Wisconsin v. Mitchell** (1983)
4. **Doe v. University of Michigan** (1989)
5. **Saxe v. State College Area School District** (2001)
6. **Bair v. Shippensburg State University** (2003)
7. **College Republicans at San Francisco State University v. Reed** (2007)
8. **Snyder v. Phelps** (2011)
9. **University of Cincinnati Chap. Young Americans for Freedom v. Williams** (2012)
10. **Uzuegbunam v. Preczewski** (2020)
11. **Speech Codes and Safe Zones on College Campuses**

D. Native Americans and the Constitution (*Read: Barkan--Chap. 7*)

“In 1492, Native Americans discovered Christopher Columbus lost at sea.”—**Unknown**

“It gives me pleasure to announce to Congress that the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements is approaching to a happy consummation... It will separate the Indians from immediate contact with settlements of whites... under the protection of the Government and through the influence of good counsels, to cast off their savage habits and become an interesting, civilized, and Christian community.... The present policy of the Government is but a continuation of the same progressive change by a milder process. The tribes which occupied the countries now constituting the Eastern States were annihilated or have melted away to make room for the whites. The waves of population and civilization are rolling to the westward, and we now propose to acquire the countries occupied by the red men of the South and West by a fair exchange, and, at the expense of the United States, to send them to land where their existence may be prolonged and perhaps made perpetual.”—**Pres. Andrew Jackson, Speech “On Indian Removal,” December 6, 1830.**

“Our nation was born in genocide when it embraced the doctrine that the original American, the Indian, was an inferior race.”—**Rev. Dr. Martin Luther King, Jr.**

“If the white man wants to live in peace with the Indian, he can live in peace. Treat all men alike. Give them all the same law. Give them all an even chance to live and grow. All men were made by

the same Great Spirit Chief. They are all brothers. The Earth is the mother of all people, and all people should have equal rights upon it. Let me be a free man, free to travel, free to stop, free to work, free to trade where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to think and talk and act for myself, and I will obey every law, or submit to the penalty."

—Chief Joseph, Nez Perce Tribe (Northwest U.S.), circa 1880

Paramount Questions: How were indigenous people treated by the early colonists in American history? What was the justification for this treatment? How did the federal government and the U.S. Supreme Court interpret the legal status of Native Americans? How and when did Native Americans gain U.S. citizenship? Why are treaties an essential part of Native America life—past and present? Should land taken by the national government be returned to Native Americans?

1. **Johnson v. McIntosh (1823)**
2. **Cherokee Nation v. Georgia (1831)**
3. **Worcester v. Georgia (1832)**
4. **Ex parte Crow Dog (1883)**
5. **United States v. Kagama (1886)**
6. **Indian Citizenship Act of 1924**
7. **Morton v. Mancari (1974)**
8. **United States v. Sioux Nation (1980)**

E. Slavery and the Constitution

"Slavery is a weed that grows on every soil."—**Edmund Burke**

"Free election of masters does not abolish the masters or the slaves."—**Herbert Marcuse**

"I had reasoned this out in my mind, there was one of two things I had a right to, liberty or death; if I could not have one, I would have the other."—**Harriet Tubman**

"Those who deny freedom to others, deserve it not for themselves; and, under a just God, cannot long retain it." – **Abraham Lincoln**

"Anytime anyone is enslaved, or in any way deprived of his liberty, if that person is a human being, as far as I am concerned he is justified to resort to whatever methods necessary to bring about his liberty again."– **Malcom X**

"If there is no struggle, there is no progress. Those who profess to favor freedom, and yet depreciate agitation, are men who want crops without plowing up the ground. They want rain without thunder and lightning. They want the ocean without the awful roar of its many waters. This struggle may be a moral one; or it may be a physical one; or it may be both moral and physical; but it must be a struggle. Power concedes nothing without a demand. It never did and it never will." — **Frederick Douglas**

"If ever America undergoes great revolutions, they will be brought about by the presence of the black race on the soil of the United States---that is to say, they will owe their origin not to the equality but to the inequality of conditions."—**Alexis de Tocqueville, 1835**

Paramount Questions: How did slavery impact the founding of the American nation? How did the colonists justify slavery? How does slavery comport with the words in the Declaration of Independence? What provisions in the U.S. Constitution deal with slavery? What are the remnants of slavery in American society today? How do we ensure equality and fairness?

1. Our Nation’s Founding—1619? 1776? 1787?
2. The Antelope (1825)
3. United States v. The Amistad (1841)
4. Prigg v. Pennsylvania (1842)
5. Dred Scott v. Sanford (1857)
6. Emancipation Proclamation (1863)
7. Thirteenth Amendment (1865)
8. Fourteenth Amendment (1868)
9. Reparations—Pros & Cons, Implementation and Constitutionality

F. Citizenship, Alienage and the Constitution

Read: R.J. Hardy—“Pathways to Citizenship” (Handout)

“Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door.” —Emma Lazarus, Statue of Liberty

“America was indebted to immigration for her settlement and prosperity. That part of America which had encouraged them most had advanced most rapidly in population, agriculture and the arts.”—President James Madison

“My fellow Americans, we are and always will be a nation of immigrants. We were strangers once, too.” — President President Barach Obama

“A nation that cannot control its borders is not a nation.”—President Ronald Reagan

*“If children do not understand the Constitution, they cannot understand how our government functions, or what their rights and responsibilities are as citizens of the United States.”
—Chief Justice John Roberts*

Paramount Questions: What is citizenship? How does one become a U.S. citizen? What are the rights and responsibilities of citizenship? Who determines citizenship under the U.S. Constitution? Should the United States have open borders or closed borders? Why has it been so difficult for our national leaders to set a coherent policy regarding immigration and naturalization?

1. The Slaughter House Cases (1873)
2. Yick Wo v. Hopkins (1886)
3. United States v. Wong Kim Ark (1898)
4. Trop v. Dulles (1958)
5. Truax v. Raich (1915)
6. Schneider v. Rusk (1964)

7. Graham v. Richardson (1971)
8. In re Griffiths (1973)
9. Mathews v. Diaz (1976)
10. Ambach v. Norwick (1979)
11. Plyler v. Doe (1982)
12. Open or Closed Borders? Amnesty for Undocumented Aliens?

G. Property Rights, Eminent Domain and Zoning

“The reason why men enter into society is the preservation of their property.”—John Locke

“Property is surely a right of mankind as real as liberty.”—John Adams

“So great a mover is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community.”—William Blackstone

“Just as man can’t exist without his body, so no rights can exist without the right to translate one rights into reality, to think, to work, to keep the results, which means: the right to property.”

—Ayn Rand

Paramount Questions: Why did the Founder consider private property so essential to the American experience. How does the U.S. Constitution ensure property rights? What is “eminent domain” and what are the limits on its use? What is “zoning”? How has zoning been used to protect property interests or discriminate against others? Can private property be taken for other private interests that affect the public interest? Who should make that decision, the courts or the legislature?

1. Kohl v. United States (1875)
2. Chicago, Burlington and Quincy Railroad Co. v. City of Chicago (1896)
3. Buchanan v. Warley (1917)
4. Village of Euclid v. Ambler Realty Co. (1926)
5. Penn Central Transportation v. City of New York (1978)
6. Hawaii Housing Authority v. Midkiff (1984)
7. Bennis v. Michigan (1996)
8. Kelo v. City of New London (2005)
9. Property—Private Interests v. Public Interests

H. The Second Amendment and the Right to Bear Arms

“The Constitution shall never be construed... to prevent the people of the United States who are peaceable citizens from keeping their own arms.” –Samuel Adams

“What country can preserve its liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance? Let them take arms.” –Thomas Jefferson

“To preserve liberty, it is essential that the whole body of people always possess arms, and be taught alike, especially when young, how to use them...”—Richard Henry Lee

“Yes, people pull the trigger, but guns are the instruments of death. Gun control is necessary and delay means more death and horror.”—former NY Governor Eliot Spitzer

“Hell, yes, we're going to take your AR-15, your AK-47. We're not going to allow it to be used against our fellow Americans anymore.”—Congressman Beto O'Rourke

“America is a country founded on guns. It's in our DNA. It's strange but I feel better having a gun. I really do. I don't feel safe, I don't feel the house is completely safe, if I don't have one hidden somewhere. That's my thinking, right or wrong.”—Actor Brad Pitt

*“Banning guns addresses a fundamental right of all Americans to feel safe.”
—Senator Diane Feinstein*

Paramount Questions: Why did the Framers of the Constitution consider “the right to bear arms” so important? What is the meaning of the Second Amendment? Does the Second Amendment apply to all private citizens or just with respect to the militia? Should all citizens be allowed to own firearms? What limitations, if any, should be placed on firearms? Why is there such a divide in American culture over gun regulation?

1. United States v. Cruikshank (1875)
2. Presser v. Illinois (1886)
3. United States v. Miller (1939)
4. United States v. Emerson (2001)
5. District of Columbia v. Heller (2008)
6. McDonald v. Chicago (2010)
7. Missouri v. McCloskey (2020)
8. **Urban v. Rural Perspectives on the Second Amendment**

I. Gender, Society and the Constitution

“Men, their rights, and nothing more; women, their rights, and nothing less.”—Susan B. Anthony

“If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have not voice, or representation.”—Abigail Adams

“Sex and race, because they are easy and visible differences, have been the primary ways of organizing human beings into superior and inferior groups and into cheap labour on which this system still depends.”—Gloria Steinem

“The Civil Rights Act of 1964 was the most sweeping civil rights legislation of its day, and included women's rights as part of its reforms. Ironically, the section on women's rights was added by a senator from Virginia who opposed the whole thing and was said to be sure that if he stuck something about women's rights into it, it would never pass. The bill passed anyway, though, much to the chagrin of a certain wiener from Virginia.”—Adam Selzer

Paramount Questions: What are some ways in which women have been discriminated throughout American history? How has the Supreme Court ruled on gender discrimination over the years? What are the landmark laws and Supreme Court decisions that have paved the way for women's rights? Should the government confer absolute gender equality in all aspects of life even if that might conflict with societal norms or religious beliefs?

1. Bradwell v. State of Illinois (1873)
2. Minor v. Happersett (1873)
3. Muller v. Oregon (1908)
4. Civil Rights Act of 1964
5. Phillipps v. Martin Marietta Corp. (1971)
6. Reed v. Reed (1971)
7. Frontiero v. Richardson (1973)
8. Dothard v. Rawlinson (1977)
9. Trimble v. Gordon (1977)
10. Harris v. Forklift Systems (1993)
11. Clark County School District v. Breeden (2001)
12. Title IX of the Education Amendments Act 1972
13. Soule, et al v. Connecticut Association of Schools (2020)

J. Marriage, Law and Society

“Having federal officials, whether judges, bureaucrats, or congressmen, impose a new definition of marriage on the people is an act of social engineering profoundly hostile to liberty.”

—**Congressman Ron Paul**

“The Bible is clear—God’s definition of marriage is between a man and a woman.”

—**Rev. Billy Graham**

“Polygamy has ancient history and is legal in many parts of the world. I find the rules of polygamy to be damaging and it’s potentially dangerous to young girls and terrible for ‘excess’ boys.”

—**Emily Yoffe**

Same sex marriage isn’t gay privilege, it’s equal rights.”—Ricky Gervais

“Gay marriage will be universally accepted in time. But if may be so bold as to say to gays and lesbians, don’t wait for that time to arrive. Just as my father and his generation did not ‘wait’ for their civil rights, nor should you. The toothpaste ain’t going back in the tube. The tide has turned.”

—**John Ridley**

“Gay marriage won’t be more of an issue 25 years from now than interracial marriage is today.”

—**Jared Polis**

Paramount Questions: What is “marriage”? Why is marriage consider an essential institution in American society? Why have the issues of same-sex marriage and polygamy been so controversial? Should laws favor married couples over single people?

1. Reynolds v. United States (1879)
2. Church of Jesus Christ of Latter-Day Saints v. United States (1890)
3. Loving v. Virginia (1967)
4. Defense of Marriage Act
5. Obergefell v. Hodges (2015)
6. Brown v. Buhman (2016)

K. Families, Parental Rights, Adoptions

“We are not asking for your permission, we are asking for our rights...it is not up to you to give, it is for us to take.”—Unknown

“We need to stop the erosion of parental authority.”—Sonny Landrum

“Most children turn out badly because they have the wrong parental image. This doesn’t mean their parents are criminal. It means they are boring and cruel.”—**Hedy Lamarr**

“It takes a village to raise a child.”—**Yoruba-African proverb**

“There is no greater inhumanity in the world than hurting or belittling a child.”—**Childinsider.com**

“The concept of father’s rights should be thrown out the door. It should be called children’s rights and parent’s responsibility”—**Unknown**

Paramount Questions: What is the definition of a “family”? How has the law protected or discriminated against families? What are the rights of the parents to raise their children? What limits does the government place on those parental rights? What happens when parents’ religious or philosophical views conflict with public law? What are the rights of grandparents? What are the rights of adopted children, birth parents and parents of adopted children?

1. **City of Belle Terre v. Boraas (1974)**
2. **Moore v. City of Cleveland (1977)**
3. **Palmore v. Sidoti (1984)**
4. **Wisconsin v. Yoder (1972)**
5. **Curtis v. School Committee of Falmouth (1995)**
6. **Troxell v. Granville (2000)**
7. **Hunsaker v. Oregon (2000)**
8. **Parental Rights to Name, Educate, Dress, Tattoo, etc. Underage Children**

L. Police Powers--Public Safety v. Civil Rights & Liberties

“If men were angels, no government would be necessary.”—**James Madison**

“Those who would give up essential liberty, to purchase a little temporary safety, deserve neither liberty nor safety.”—**Benjamin Franklin**

“Government exists to protect us from each other. Where government has gone beyond its limits is in deciding to protect us against ourselves.”—**Ronald Reagan**

“The natural progress of things is for liberty to yield, and government to gain ground.”—**Thomas Jefferson, Letters of Thomas Jefferson**

“Government’s first duty and highest obligation is public safety.”—**Governor Arnold Schwarzenegger**

“To restore and keep the public’s confidence in the integrity of their government, state government and its officials must be open, honest and transparent.”—**John Lynch**

“Police abuse in black and brown communities is generations old. It is nothing new. It has become more visible to mainstream America largely because of the proliferation of recording devices, cell phones, video recorders—they’re everywhere. We need police officers. We also need them to be held accountable to the communities they serve.”—**Redditt Hudson**

Paramount Questions: What are “police powers”? What is the source of these powers under the U.S. Constitution? What happens when the government’s authority to regulate the health, safety and welfare of the people interfere with individual liberties, such as free exercise of religion or freedom of speech or assembly? Can the government compel people to take vaccinations or close private clubs or restaurants during pandemics? Can the government dictate to churches and religious practices in the name of the public good? Are “scarlet letter” laws constitutional?

1. Jacobson v. Massachusetts (1905)
2. Meyer v. Nebraska (1923)
3. Bunn v. North Carolina (1949)
4. McGowen v. Maryland (1961)
5. Smith v. Doe (1973)
5. Wooley v. Maynard (1977)
6. Goldschmitt v. State (1986)
7. Minnesota v. Hershberger (1990)
8. Connecticut Department of Public Safety v. Doe (2003)
9. Louisiana v. Hill (2020)
10. Agudath Israel of America/Catholic Diocese of Brooklyn v. Cuomo (2020)
11. **Police Procedures and Minority Rights**

M. Reproductive Rights and Government Regulation

“American civilization cannot survive with twelve-year-olds having babies, fifteen-year olds shooting one another, seventeen-year-olds dying of AIDS, and eighteen-year-olds graduating with diplomas they cannot read.”—Speaker of the House, Newt Gingrich, 1994

“I do not wish women to have power over men; but over themselves.”—Mary Wollstonecraft

“Reproductive freedom is not just the ability not to have a child through birth control. It’s the ability to have one if and when you want.”—Pamela Mason

“The ‘right to life, liberty, and the pursuit of happiness’ begins with ‘life’, and ‘life’ begins at conception.”—A.E. Samaan

“Abolition of a woman’s right to abortion, when and if she want it, amounts to compulsory maternity.”—Edward Abbey

“Give us the grace...when the sacredness of life before birth is attacked, to stand up and proclaim that no one ever has the authority to destroy unborn life.”—Pope Paul II

“The law that protects women’s right to choose, and think there is a competing right, which is the rights of the unborn. And as you get closer to term, I think the right of the unborn becomes more and more prevalent.”—Governor Jeb Bush

Paramount Questions: Are reproductive freedoms absolute? Under what conditions, if any, can the government regulate reproductive rights? Why has abortion been such a hot button issue in American politics? What are the rights of women with respect to the decision to beget a child? What rights to

parents have with respect to minor children and reproductive freedom?
Should fathers have a say with respect to abortion? Do fetuses have rights?
Should the government restrict “late term” abortions?

1. Buck v. Bell (1927)
2. Skinner v. Oklahoma (1942)
3. Griswold v. Connecticut (1965)
4. Eisenstadt v. Baird (1972)
5. Roe v. Wade (1973)
6. Stump v. Sparkman (1978)
7. Stenberg v. Carhart (2000)

N. Americans with Disabilities, Law and Society

“Every person with a disability is an individual.”—**Itzhak Perlman**

“I cannot change the direction of the wind, but I can adjust my sails to always reach my destination.”—**Jimmy Dean**

“Being disabled should not mean being disqualified from having access to every aspect of life.”
—**Emma Thompson**

“Congress acknowledged that society’s accumulated myths and fears about disability and disease are as handicapped as are the physical limitations that from the actual impairment.”
—**Associate Justice William J. Brennan**

“Just because a man lacks the use of his eyes doesn’t mean he lacks vision.”—**Stevie Wonder**

“Employers have recognized for some time that it’s smart business to have a diverse workforce—one in which many views are represented and everyone’s talents are valued. Well, disability is part of diversity.”—**Thomas Perez**

“Every man, woman and child with a disability can now pass through once-closed doors into a bright new era of equality, independence and freedom... We will not tolerate discrimination in America.”—**Senator Bob Dole**

Paramount Questions: How does the government define “disability”? Does this include both physical and mental disabilities? What laws are in place to protect Americans with disabilities? Is it possible to confer absolute rights to people to are disabled? What are the efficacy and limits to these policies?

1. Americans with Disabilities Act of 1990
2. Bragdon v. Abbott (1998)
3. New York Board of Law Examiners v. Bartlett (1999)
4. Sutton et al v. United Airlines (1999)
5. PGA Tour v. Casey Martin (2001)
6. Tennessee v. Lane/Jones (2004)

O. Age Discrimination, Law and Society

“Discrimination due to age is one of the greatest tragedies of modern life. The desire to work and be useful is what makes life worth living, and to be told your efforts are not needed because you are the wrong age is wrong.”—Johnny Ball

“Age is not lost youth but a new stage of opportunity and strength.”—Betty Friedan

“Age is not based on chronology, but psychology.”—Tony Robbins

“The only way to avoid age discrimination in Hollywood is to die young.”—Larry Gelbart

“Age is an of mind over matter. If you don’t mind, it doesn’t matter.”—Mark Twain

“Aging is a natural part of life and brings many changes to and for each of us. Many of these changes happen gradually over time and may go unnoticed until they reach a certain point where we become aware of them and can no longer deny them.”—Nina W. Brown

Paramount Questions: How does society view aging? What physical or mental changes take place as people get older that might impact their abilities? Are minimum age laws, say to vote, drive an auto or get married, rational? What laws have been enacted to protect people from age discrimination in the work place and with respect to the freedoms?

1. Age Discrimination in Employment Act of 1967
2. Massachusetts Board of Retirement v. Murgia (1976)
3. O’Connor v. Consolidated Coin Caterers Corp. (1996)
4. Reiners v. F.A.A. (1998)
5. Babb v. Wilkie, Secretary of Veterans Affairs (2020)

P. Life Styles, Law and Society

“Your genetics load the gun. You lifestyle pulls the trigger.”—Mehmet Oz

*“If a man does not keep pace with his companions, perhaps it is because he hears a different drummer. Let him step to the music which he hears, however measured of far away.”
—Henry David Thoreau*

“I think that we all have that right of passage of dating the tortured artist who seems cooler than we think we are; we aspire to be like them, and we’re excited that somebody is turning us on the new music or a new lifestyle.”—Drew Barrymore

“Every generation laughs at old fashions, but follows religiously the new.”—Henry David Thoreau

*“I think you can fairly say I spawned or laid an egg that turned into a lifestyle industry.”
—Martha Stewart*

Paramount Questions: What is meant by “life style” rights? Do schools have a right to impose standards with respect to dress, make up, tattoos, facial hair and hair styles? Do private employers have the right to dictate dress codes? Do public employers have the right to set standards for appearance? Can employers dictate what employees can eat, drink, smoke or say on their own time?

1. State v. Metzger (1982)
2. Goldman v. Weinberger (1986)
3. Grusendorf v. City of Oklahoma City (1987)
4. Fraternal Order of Police v. City of Newark (1999)
5. Amos v. Starbucks (2010)
6. EEOC and Rangel v. Red Robin Gourmet Burgers, Inc. (2005)
7. Viscecchia v. Allegria Hotel (2015)
8. EEOC v. Catastrophe Management Solutions (2016)
9. Ewing v. UPS (2018)

Q. Associational Rights and Discrimination

“Birds of a feather flock together.”—Aristotle

“The latent causes of faction are thus sown in the nature of man.”—James Madison, Federalist 10

“Freedom of association includes the freedom not to associate.”—Ayn Rand

“What surrounds us is what is within us.”—T.F. Hodges

“As we are, so we associate.”—Ralph Waldo Emerson

“There is always strength in numbers. The more individuals or organization that you can rally to your cause, the better.”—Mark Shields

“Privacy in one’s associations...may in many circumstances be indispensable to freedom of association, particularly where a group espouses dissident beliefs.”

--Associate Justice John Marshall Harlan II

Paramount Questions: What is meant by the right to “freedom of association”? Where is this right found in the Constitution? What are the limits, if any, to this freedom? Is there a freedom not to associate? Do private clubs or religious denominations have the right to exclude people because of their race, gender, age, ethnicity or beliefs? How does one balance freedom of association with public accommodations?

1. NAACP v. Alabama (1958)
2. Moose Lodge No. 107 v. Irvis (1972)
3. Bob Jones University and Goldsboro Christian School v. U.S. (1983)
4. Rotary International v. Rotary Club of Duarte (1987)
5. Boys Scouts of America v. Dale (2000)
6. University of Wisconsin Board of Regents v. Southworth (2000)
7. Masterpiece Cakeshop v. Colorado Civil Rights Commission (2019)

R. Culture, Obscenity and the First Amendment

"I don't know how one actually would define obscenity. I'm sure the definition is different according to the age one is living in."—**Jane Alexander**

"Sex and obscenity are not synonymous. Obscene material is material which deals with sex in a manner appealing to prurient appeal."—**Associate Justice William J. Brennan**

"Obscenity—I know what it is when I see it."—**Associate Justice Potter Stewart**

"It's true that obscenity is a matter of taste and in the eye of the beholder."
—**Christopher Hitchens**

"Indecency, vulgarity, obscenity—these are strictly confined to man; he invented them. Among the higher animals there is no trace of them. They hide nothing. They are not ashamed."
—**Mark Twain**

"The justices have constitutionally protected obscenity in libraries, filth over cable television, and now unlimited internet pornography."—**Phyllis Schlafly**

Paramount Questions: Can the government regulate morality? What is "obscenity"? How has the U.S. Supreme Court defined "obscenity"? How has the Court's definition changed over the years? Why is it important for government to regulate or not regulate "obscenity"? How can the government protect children from pornography in the age of the internet and social media?

1. **Stanley v. Georgia** (1969)
2. **Miller v. California** (1973)
3. **FCC v. Pacifica** (1978)
4. **New York v. Ferber** (1982)
5. **Hudnut v. American Booksellers Association, Inc.** (1986)
6. **City of Renton v. Playtime Theatres, Inc.** (1986)
7. **Pope v. Illinois** (1987)
8. **Barnes v. Glen Theatre, Inc.** (1991)
9. **Communication Decency Act of 1996**
10. **Reno v. ACLU** (1997)
11. **Brown v. Entertainment Merchants Association** (2011)

S. Society and Punishment for Crime

"I think more people would be alive today if there were a death penalty."—**Nancy Reagan**

"I personally have always voted for the death penalty because I believe that people who go out prepared to take the lives of others forfeit they own right to live."—**Margaret Thatcher**

"Capital punishment is against the best judgment of modern criminology and, above all, against the highest expression of love in the nature of God."—**Rev. Dr. Martin Luther King, Jr.**

“It is better and more satisfactory to acquit a thousand guilty persons than to put a single innocent one to death.”—Maimonides

“The most powerful case in favour of capital punishment is the claim of justice: Some crimes are so heinous that the only proportionate punishment, the only fitting retribution, is death.”—Charles Krauthammer

“To take a life when a life has been lost is revenge, not justice.”—Desmond Tutu

Paramount Questions: What provisions of the U.S. Constitution guarantee rights for those accused or convicted of crimes? How does the government ensure “justice” for the victims of criminal actions or their families? What is meant by “cruel and unusual punishment”? How has the Supreme Court changed its position on capital punishment over the years?

1. **Robinson v. California** (1962)
2. **Powell v. Texas** (1968)
3. **Rummel v. Estelle** (1980)
4. **Wilkerson v. Utah** (1879)
5. **Furman v. Georgia** (1972)
6. **Gregg v. Georgia** (1976)
7. **Atkins v. Virginia** (2002)
8. **Roper v. Simmons** (2005)

T. Social Media, Technocracies and the Law

“Expect to receive the same consequences online as in real life. Freedom of speech is applicable to online communications, however, you can still be fired for anything.”—Amie Krone

“I think there should be regulations on social media to the degree that it negatively affects the public good—Elon Musk

“Government regulation of social media would kill the internet—and free speech.”—Daniel Ortner

“I am a nonparticipant of social media. I’m not much attracted to anything that involves the willing forfeiture of privacy and the foregrounding of insignificance.”—Billy Collings

“A handful of people, working at a handful of technology companies, through their choices will steer what a billion people are thinking today. I don’t know a more urgent problem than this. It’s changing our democracy, and it’s changing our ability to have the conversations and relationships that we want with each other.”—Tristan Harris, former Google employee

“Randomized, controlled experiments conducted with more than 10,000 people from 39 countries suggest that one company alone—Google LLC, which controls about 90 percent of online search in most countries—has likely been determining the outcomes of upwards 25 percent of national elections in the world for several years...”—Robert Epstein

“Just before the Fourth of July, Facebook automatically blocked a post from a Texas newspaper that claimed it contained hate speech. Facebook then asked the paper to ‘review the contents of it’s page and remove anything that does not comply with Facebook’s policies.’ The text at issue was the Declaration of Independence.”—Congressman Bob Goodlatt

“No matter your views, if you suspect political bias has caused you to be censored or silenced online, we want to hear about it.”—President Donald Trump

“We cannot allow internet service providers to restrict the best access or to pick winners and losers in the online marketplace for services and ideas.”—President Barack Obama

Paramount Questions: How has the advent of the internet and social media changed America culture and society? What are the positives and negatives of this technological change? Should the federal government regulate cyberspace to protect people from deceptive practices, bullying, stalking, etc.? Should the government grant legal immunity to providers, such as Google, Twitter or Facebook? Have these “Big Tech” platforms become “technocracies”—small, powerful and biased gatekeepers who dictate what is transmitted and who can communicate? Should society be concerned about government censoring the technocracies or more concerned about Big Tech censoring government officials?

1. Elonis v. United States (2015)
2. Keefe v. Adams (2016)
3. Hunt v. Board of Regents of the University of New Mexico (2019)
4. Prager University v. Google (2017)
5. Charles C. Johnson v. Twitter (2018)
6. Tulsi Gabbard v. Google (2019)
7. Laura Loomer v. Google, Facebook, Twitter and Apple (2018)
8. President Trump’s Executive Order on Online Censorship (2020)
9. Future of Section 230 of the Communications Decency Act of 1996

U. Euthanasia, Assisted Suicide, and the Right to Die

“The right to die with dignity is a fundamental universal right of all living creatures.”—Tripsey South

“That it will never come again is what makes life so sweet.”—Emily Dickenson

“People want the right to die at a time of their own choosing. Too many families have watched helplessly as a relative dies slowly, longing for death.”—Polly Toynbee

“Death is not the opposite of life, but a part of it.”—Haruki Murakami

“Our dead are never dead to us, until we have forgotten them.”—George Eliot

We all die. The goal isn’t to live forever; the goal is to create something that will.”—Chuck Palahniuk

“The right time to die is never exactly now.”—Mason Cooley

"I don't believe in dying."—George Burns

"Whatever you want to do, do it now. There are only so many tomorrows."—Michael Landon

"It is not the length of life, but the depth of life."—Ralph Waldo Emerson

Paramount Questions: Is there a Constitutional right to die? Who should determine when and if to remove life support from terminally ill people—family or medical professionals? What is a “living will”? Should the government ration health care? Who should be the first to receive immunization?

1. In re Quinlan (1976)
2. Cruzan v. Director, Missouri Department of Health (1990)
3. Washington v. Glucksberg (1997)
4. Vacco v. Quill (1997)
5. The life and death of Terri Schiavo and Brittany Maynard
6. U.S. v. Oakland Cannabis Buyer's Cooperative (2001)
7. Gonzales v. Oregon (2006)
8. Implementation of the Covid19 vaccinations