

PSCI 280 :: Constitutional Controversies
Prof. Rose Corrigan, Drexel University
Fall semester 2014
Thursdays 1-4pm

Overview

The United States Constitution is designed to both facilitate—and to frustrate—the will of the majority. Over more than 200 years, the original Constitution has been altered substantially by subsequent changes to its text, especially the additions of the Bill of Rights. The first ten amendments to the Constitution have limited the ability of government to infringe upon individual liberties and the rights of minority groups. This course examines First Amendment protections for civil liberties, especially in the areas of free speech, religious freedom, and freedom of association. Pivotal Supreme Court cases in these areas will be the starting point for our discussions about how we as citizens should understand and balance commitments to democracy, liberty, and equality.

Course goal and mission

The goal of this course is to provide students with a basic understanding of the Constitutional principles, especially guarantees of individual liberties and restraints on government power, that make up a distinctive part of our national identity. The cases covered in the course touch on the role of government in relation to some of the deepest and most important parts of our public and private lives. Bringing together inside and outside students will provide a rich array of experiences and perspectives on these persistent questions in American politics and public life.

Course Objectives

Students will:

- become familiar with the US Constitution and Bill of Rights, especially the First Amendment;
- learn basic legal language and concepts used to discuss problems of civil liberties;
- identify and apply methods of Constitutional interpretation;
- understand and respond to different understandings about the meanings of freedom and government power set out in the Constitution.

Text

The required text for the course is:

- David O'Brien, *Constitutional Law & Politics: Civil Rights & Civil Liberties* (Vol. 2), 8th Ed.

— Schedule of readings —

9/25 Introductions

10/2 What does the First Amendment protect?

Our initial set of cases explores the contours of the First Amendment, especially questions about whether we should read the words of the Constitution broadly or narrowly. We will start to explore what types of speech, conduct, and beliefs are protected by the First Amendment.

Minersville v. Gobitis

West Virginia v. Barnette

10/9 When is conduct protected like speech?

Building on last week's discussion about what kinds of conduct are protected like speech, we will read three cases in which the Court considers whether certain types of conduct—including written obscenities, flag burning, and references to drug use—should be protected like pure speech.

Cohen v. California

Texas v. Johnson

Morse v. Frederick

10/16 Is all speech created equal?

Can government limit specific kinds of speech? In these cases the Court considers prohibitions on specific types of speech—activities outside abortion clinics and cross-burning—that states have said communicate harmful messages.

Hill v. Colorado

Virginia v. Black

10/23 Testing the limits of religious tolerance

State and federal laws may intentionally or unintentionally limit religious freedom. These cases ask whether a democratic society must tolerate all religious practices, including polygamy, refusal to send children to school, and drug use. When should religious practices be accommodated, and when may they be banned in the public interest?

Reynolds v. US

Wisconsin v. Yoder

Employment Division of Oregon v. Smith

10/30 "We are a religious people..."

Does the presence of religious displays in government-owned spaces such as parks and courthouses indicate government support for religion? What is the line between recognizing our country's religious heritage and state endorsement of religion?

Van Orden v. Perry

McCreary v. ACLU of Kentucky

11/6 A right to discriminate?

The First Amendment guarantees us the right to associate freely with others of our choosing. Do we also have a right to *not* associate with individuals who we find objectionable? We will explore the conflicts between freedom of association and non-discrimination through cases that examine governmental efforts to eradicate discrimination based on race and sexual orientation.

Civil Rights Cases

Hurley v. Irish-American Gay, Lesbian, and Bisexual Group of Boston

Boy Scouts of American v. Dale

11/13 Work on group projects

11/20 Work on group projects

11/27 Thanksgiving—no class

12/4 Presentation of group projects

12/11 Graduation ceremony