

PLSC 215: Civil Rights and Liberties in a Diverse Society (Your Rights and Liberties) Honors [AKA The Forbidden Topics]

SYLLABUS

Instructor: Professor Pyle
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Office Hours: 8:30-9:30, 11:00-12:30 MW, 1-2 MW & By Appointment
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Section: 12434
Time: 12:30-1:45
Place: PH 220

COURSE DESCRIPTION

This course is an introduction to diversity in college, the workplace, the home, and society in general from a legal perspective. It will provide students with the necessary educational skills to succeed in a modern society which requires knowledge of diversity, its effects, and the personal ability to deal with these principles in a legal context. Upon its completion, you should be knowledgeable with legal diversity issues and the part they play in all of our lives on a daily basis. We will survey how a wide variety of groups and individuals sought and currently seek legal protection and recognition through the Constitution, judicial interpretation and legislation. The search for legal protection and recognition is a political struggle that takes place between various racial groups, genders and ideological perspectives as well as religious and sexual orientations. Exposure to these struggles will allow the student to experience a wide range of perspectives and critique how the legal system and society has dealt with clashes between diverse elements of the US.

COURSE OBJECTIVES

General Education Diversity Outcomes:

1. Examine the complexity of their own cultural identities and how these relate to the cultural identities of others in the U.S.
2. Explore the causes and consequences of social intolerance in the U.S.
3. Examine the differences between social intolerance and institutionalized racism, ethnocentrism, and exclusion in the U.S.

4. Explore how diversity has affected and continues to affect income distribution, economic mobility, political access, and the democratic process in the U.S.
5. Develop an awareness of alternative values, views, and communication styles in the U.S.

Outcomes as Applied to this class:

1. To examine and increase awareness of the dimensions and complexity of diversity in American laws, institutions and cultures and the long-term effects it has upon each. Inclusive in this objective will be a discourse on students' own diversity and how it relates to other cultural identities from a legal perspective. This course will also assist students in developing an awareness of alternative values, views, and communication methods as they relate to legal diversity issues
2. To cultivate students' expertise in diversity issues in order to allow them to participate in credible discourse involving this subject and to objectively evaluate the origins and ramifications of diversity on an everyday basis as it relates to their own cultural identity. Additionally, students will develop an awareness of alternative values, views, and communication styles in the U.S.
3. To provide a forum for students to explore the ends, means and consequences of diversity, including the causes and consequences of social intolerance in the U.S. Further, students will be assisted in determining methods of analysis and evaluation of this subject through significant and insightful readings, discussions and case studies which involve an examination of the differences between social intolerance and institutionalized racism, ethnocentrism, and exclusion in the U.S.
4. To cultivate an appreciation by students of the role that diversity has played in the evolution of American law, institutions, culture, income distribution, economic mobility, political access, and the democratic process in the U.S. , as well as their own interaction to diversity as it affects them.

REQUIRED READING

The Civil Rights Movement - Bruce Dierenfield

Freedom Summer – Bruce Watson

Religious Freedom and Indian Rights – Carolyn Long

Numerous Selected Abridged Case Law and Other Material Provided Online

Course Policies and Procedures: STUDENT RESPONSIBILITIES:

In addition to completing the required assignments on time, students will be required to answer any and all questions *in their own words*. That is, cutting and pasting answers from any source, without proper citation, is a form of plagiarism and will not be accepted. Any assignments that are completed in this way will *NOT*** be given credit and can result in disciplinary action by the University.** Answers that are copied, with proper citation, will not receive full credit. Please see the University's policy on plagiarism and academic dishonesty at http://www.emich.edu/studentconduct/facultylinks/academic_integrity.php Judicial Services defines plagiarism as "*Plagiarism* - deliberate and knowing use of someone else's work or ideas as one's own. Examples of plagiarism are: quoting a source verbatim, or paraphrasing text from a given source, without properly citing the source; turning in a research paper that was written by someone else; or in any other way passing off someone else's work as one's own; or failing to give credit for ideas or materials taken from someone else." The Halle Library site contains more information about plagiarism and integration of sources at <http://www.emich.edu/library/help/integratingsources.php>

Please be sure also that you understand the **EMU Student Conduct Code** <http://www.emich.edu/sjs/discproces.html> and adhere to its guidelines when interacting with others during this course. Being in the 'academic-world' does not mean that you will not be held accountable for any unethical, discriminatory, or otherwise inappropriate conduct or language as described in the Student Conduct Code. There will, no doubt, be times when the topic of discussions will raise some very passionate ideas from many different viewpoints. I strongly recommend using language that is the least offensive and please remember to not take things too personally. Lets try and be as respectful of others ideas and viewpoints as possible.

Notes about electronics in class:

- 1) NO CELL PHONES UNLESS THERE ARE EXTRAORDINARY CIRCUMSTANCES (I.E., SICK RELATIVE)
- 2) NO TEXTING IN CLASS
- 3) COMPUTERS MAY BE USED FOR NOTE TAKING AND CLASS RELATED ACTIVITIES – FACEBOOK AND OTHER SOCIAL NETWORK SITES AS WELL AS EBAY ET AL. ARE NOT CLASS RELATED.
- 4) VIOLATIONS OF THESE POLICIES WILL RESULT IN POINTS BEING DEDUCTED FROM YOUR PARTICIPATION GRADE (10% REDUCTION PER INFRACTION – I will take a point from your final grade because if you are doing these things you are not participating).

EXAMS, ASSIGNMENTS

There will be three exams (including a final). Exams will cover both reading and lecture materials and are not cumulative (the final exam may contain some material from other exams). The exams will consist of essay, multiple choice and true or false questions. The essay questions for this course will require you to think critically about the material and its impact on US diversity. Exams must be taken at the regularly scheduled time unless another time has been previously approved by the instructor or in the case of a documented emergency.

Grading System:

- 75% Exams (First 25%, Second 25% and Final 25%)
- 15% Discussion Exercises & Book Questions (To be handed out in class or emailed)
- 10% Class Discussions and Attendance

Grading Scale

Grading Scale will be as follows:

A	100-94
A-	93-90
B+	89-87
B	86-84
B-	83-80
C+	79-77
C	76-74

	C-	73-70
	D+	69-67
	D	66-64
	D-	63-60

SCHEDULE OF TOPICS: Changes will be announced by Email and In-Class with at least One Week Notice (I reserve the right to add or subtract readings)

I. Introduction: An Institutional and Cultural Context for Diversity in America

BEGIN READING FREEDOM SUMMER!

September 4-11

- **An Introduction to the Course and American Politics and Culture**
- **American Diversity and American Government: Race, Ethnicity and Ideology in the American Context**
 - Founders and the Notion of Factions
 - Limited Government and Minority Rights
 - Importance of Governmental Structure and the Protection of Minority Rights
 - American History as a History of Increasing Diversity and Legal Recognition of Rights
 - Toleration and Limits of Liberalism
 - Modern Notions of Diversity, Law and a Changing Society (Culture, Social and Economic Demographics Across Time)

Readings: Unit 1 –

- Mayflower Compact
- Declaration of Independence
- Federalist 10, 51, and 78
- US Constitution

September 16-18: Judicial Process and the US Supreme Court: Interpreting the Law

- Nature of Law
- Realities of Legal Interpretation and the Evolving Culture
- Amending the Constitution through Interpretation: Expanding and Contracting Civil Rights and Liberties

Readings: Unit 2

- *Dierenfield x-13*
- *Marbury v. Madison* (1803)
- *McCulloch v. Maryland* (1819)

Exercise 1 is Due on September 18

September 23 - System of Government meets Ideals of a Liberal Society: Limits of Toleration and notion of Liberalism

- Nature of Diversity and Toleration
- Promise or Reality: Nature of Rights and attending political struggle

Readings: E-Reserves TBA

- Seneca Falls Declaration
 - Sojourner Truth: "Ain't I a Woman?", December 1851
 - What to the Slave is the Fourth of July
 - Limits of Toleration & Federalist 10
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- ❖ *A Matter of Interpretation: Federal Courts and the Law*. Antonin Scalia, Edited by Amy Gutmann. Princeton University Press, 1998.
 - ❖ *Corwin on the Constitution: On Liberty against Government, Vol III*. Edward S. Corwin, Edited by Richard Loss. Cornell University Press, 1988.
 - ❖ *Implementing the Constitution*. Richard H. Fallon, Jr. Harvard University Press, 2001.
 - ❖ *Living the Bill of Rights: How to Be an Authentic American*. Nat Hentoff University of California Press, 1999.
 - ❖ *Marbury v. Madison: The Origins and Legacy of Judicial Review*. William E. Nelson. University Press of Kansas, 2000.
 - ❖ *On Constitutional Ground*. John Hart Ely. Princeton University Press, 1996.
 - ❖ *Spheres of Liberty: Changing Perceptions of Liberty in American Culture*. Michael Kammen. University Press of Mississippi. 2001
 - ❖ *Taking the Constitution Away from the Courts*. Mark Tushnet. Princeton University Press, 1999.
 - ❖ *The Bill of Rights, the Courts, and the Law: Third Edition*. David Bearinger, Editor. University of Virginia Press, 2003.
 - ❖ *The Politics of Toleration in Modern Life*. Susan Mendus, editor. Duke University Press, 2000.
 - ❖ *Multiculturalism and American Democracy*. Edited by Arthur M. Melzer, Jerry Weinberger, and M. Richard Zinman. University Press of Kansas, 1998.

October 30-7 Discussion of Freedom Summer (Book Questions)

First Exam is October 9th

II. Political and Religious Diversity: Freedom of Participation, Faith and Conscience

October 14-21 Race and the US Constitution 1787-1950

Brief Historical Sketch of Politics, Culture

And Law: A Process of Promise and Failure

- Promise of Equality v. Realities of a Majority Culture and Prospective
- A Call to Political and Social Movements: The Need to Engage the Debate and Define the Terms

- Difficulties in Fulfilling the Promise by Overcoming Discriminatory Institutions, Ideologies and Culture: The Impact of *De Jure* (by Law) and *De Facto* (by Circumstance and Culture) Discrimination.
- How does Your Identity Fit with Those in the Past and Today
- An Uncertain Past: Overcoming Institutionally Imposed Racial Inequality
 - An Uneasy and Unjust Compromise: Institutionalizing Racism through the 3/5th's Clause and the Twenty Year Ban on the Regulation of Slavery.
 - Abolitionists and Racist: The Struggle to Overcome a Culture of Racism
 - The Civil War and the Failure of Reconstruction
 - Race and Equality in the Time of War

Readings: Unit 4

- Dierenfield 9-21
- George Washington Carver and W.E.B. Du Bois
- Executive Order 9981
- Civil Rights Act of 1875
- *Scott v. Stanford* (1854)
- 13, 14, and 15 Amendments to the US Constitution
- *Korematsu v. US* (1944)
- *Sweatt v. Painter* (1950)

Exercise 2 is Due on October 21

October 23-30 Race and the US Constitution: 1954-2013

Beginning the Second Reconstruction and the Civil Rights Movement in the 20th Century: Ending *De Jure* or Institutionalized Discrimination

- Using the Law to Protect, Promote and Enforce Racial Equality: Overcoming Social Intolerance and the Legacy of Intolerance
- The Importance of Federal Legislation: Civil Rights and Voting Rights Acts
- Challenges in Overcoming *De Facto* and *De Jure* Racial Discrimination in Voting: Ensuring Political Access to the Democratic Process
 - Regulating the Intolerance and Discriminatory Behavior of Private Individuals and Society: Insuring and Creating Economic Mobility and Opportunity
 - Ending Discrimination in Employment: Impacting Income Distribution and Economic Mobility
 - Culture: Sports, Music and Movies
 - Freedom Summer
 - Affirmative Action and Quotas: A Distinction with or without a Difference.

- Current Battles at the Supreme Court over Racial Diversity and Intolerance
- A look at the Numbers – Evidence of Discrimination Individual v. Institutional

Readings

- Dierenfield 22-96 and 139-157
- *Brown v. Board of Education of Topeka* (1954)
- Civil Rights Act of 1964
- *Grutter v. Bollinger* (2003) Mock SCt
- *Gratz v. Bollinger* (2003)
- *Parents Involved v. Seattle School District* (2007) Mock SCt

November 4-6 Equality and the Issues of Sex: Expanding the Notion of

Gender Equality and the Law: Overcoming Social and Institutional Intolerance and Gaining Political and Economic Rights

- Defeating Legal Barriers to Economic and Political Participation
- The Struggle to Move from a “Chivalry” based Paternalism to Legal Equality
- Ending Social Exclusion and Creating Economic Mobility: Discrimination in the Workplace and Education: Title VII & IX
- Sexual Harassment and Gender Equality:
- Diversity and the Notions of Substantive Due Process and Equality: Expanding the Scope of the Notion of Privacy Liberty and Equality in the Constitution
 - Substantive Definitions of Liberty Applied to the Constitution
 - Origins of a Right of Privacy
 - Abortion as a Constitutional Right
 - Sexual Preference and the Notions of Liberty, Privacy and Marriage

Readings:

- *Muller v. Oregon* (1908)
- *United States v. Virginia* (1996)
- *Lawrence v. Texas* (2003)

Second Exam is on November 11th

Iii. Political and Religious Diversity: Freedom of Participation, Faith and Conscience

November 13-20 First Amendment: Defining Speech as the Expression of Ideas and Values

Begin reading Religious Freedom and Indian Rights

Ideological Diversity and Political Freedom -

- Governmental Order v. Political Liberty
- The Roots of Ideological Intolerance and the Free Market Place of Ideas
- Ideological Diversity in a Time of Crises
- Defining Speech as Individual Expression
 - Does the Constitution Ban “Dangerous” or Different Ideas? Communication, Communism and Burning Flags, Draft Cards and Crosses
 - Protecting National Symbols or Limiting Expression
 - Hate Speech and the Right of Expression: Can the Protection of the Diversity of Opinion Go too Far?
 - When Does an Intolerant Expression become an Illegal One and Should it?

Readings

- Selected Portions of:
 - Holmes’ Dissent in *Abrams v. US* (1919)
 - *Gitlow v. New York* (1925)
 - *Tinker v. Des Moines* (1969)
 - *Morse v. Fredricks* (2007)
 - *US v. O’Brien* (1968)
 - *Texas v. Johnson* (1989)
 - *R.A.V. v. St. Paul* (1992)
 - *Snyder v. Phelps*

Exercise 3 is Due on November 20

Suggested/Additional Readings:

- ❖ *CAMPUS HATE SPEECH ON TRIAL*. TIMOTHY C. SHIELL. UNIVERSITY PRESS OF KANSAS, 1998.
- ❖ *Fighting Words: Individuals, Communities, and Liberties of Speech*. Kent Greenawalt. Princeton University Press, 1996.
- ❖ *FLAG BURNING AND FREE SPEECH: THE CASE OF TEXAS V. JOHNSON*. ROBERT JUSTIN GOLDSTEIN. UNIVERSITY PRESS OF KANSAS, 2000.
- ❖ *HATE SPEECH: THE HISTORY OF AN AMERICAN CONTROVERSY*. SAMUEL WALKER. UNIVERSITY OF NEBRASKA PRESS, 1994.
- ❖ *The Boundaries of Freedom of Expression & Order in American Democracy*. Editor Thomas R. Hensley. The Kent State University Press, 2001.
- ❖ *Eternally Vigilant: Free Speech in the Modern Era*. Editors Lee C. Bollinger and Geoffrey R. Stone. University of Chicago Press, 2001.
- ❖ *Free Speech, "The People's Darling Privilege": Struggles for Freedom of Expression in American History*. Michael Kent Curtis. Duke University Press, 2000.
- ❖ *The Irony of Free Speech*. Owen Fiss. Harvard University Press, 1996.
- ❖ *WHEN THE NAZIS CAME TO SKOKIE: FREEDOM FOR SPEECH WE HATE*. PHILIPPA STRUM. UNIVERSITY PRESS OF KANSAS, 1999.

December 25-4 Religious Freedom: Exercise and Establishment

- Questions of the Establishment of Religion and its Impact of Diversity of Religious Faiths
 - Religious Intolerance: The Dangers of a Single or Select Number of State Religions
 - Governmental Preferences and Neutrality Toward Religion: Institutionalized Religious Tolerance
 - Respecting Religious Faiths and Traditions without Accommodating their Practice

Freedom of and from Religion: Protecting Religious Beliefs and the Actions Associated with those Faiths

- Religious Tolerance and American History
- Religious Faith and Practice: A Distinction without a Difference?
- Protection Governmental Preferences and Neutrality Toward Religion: Thwarting Institutionalized Intolerance
- Respecting Religious Faiths and Traditions without Accommodating their Practice
- Protecting “Minority and Non-Traditional Faiths” in American Society: The Struggle for Social Tolerance

Readings:

- Selected Portions of:
 - *Cantwell v. Connecticut* (1940)
 - *EEOC v. Hosanna-Tabor Evangelical Lutheran Church and School, Michigan* (2010)
 - *Zelman v Harris* (2002)
 - *Van Orden v. Perry* (2005)
 - *Religious Freedom Restoration Act*
 - *Wisconsin v. Yoder* (1972)
 - *Christian Legal Society v. Martinez* (2009)

December 9-11 Long’s Book: Religious Freedom and Indian Rights
(Book Questions)

Final Exam December, 16 11:30-1:00

Suggested/Additional Readings:

- ❖ *Affirmative Action on Trial: Sex Discrimination in Johnson v. Santa Clara*. Melvin I. Urofsky University Press of Kansas, 1997.
- ❖ *Fighting Words: Black Women and the Search for Justice*. Patricia Hill Collins. University of Minnesota Press, 1999
- ❖ *Further to Fly: Black Women and the Politics of Empowerment*. Sheila Radford-Hill. University of Minnesota Press, 2000.
- ❖ *Roe v. Wade: The Abortion Rights Controversy in American History*. N. E. H. Hull and Peter Charles Hoffer. University Press of Kansas, 2001

- ❖ *The Rights of Women, Third Edition.* Susan Deller Ross, Isabelle Katz Pinzler, Deborah A. Ellis, and Kary L. Moss. Southern Illinois University Press, 1993
- Women in the Barracks: The VMI Case and Equal Rights.* Philippa Strum. University Press of Kansas, 2002

Suggested/Additional Readings:

- ❖ *Equality for Same-Sex Couples: The Legal Recognition of Gay Partnerships in Europe and the United States.* Yuval Merin. University of Chicago Press, 2002.
- ❖ *The Constitutional Underclass: Gays, Lesbians, and the Failure of Class-Based Equal Protection.* Evan Gerstmann. University of Chicago Press, 1999.
- ❖ *The Gay Rights Question in Contemporary American Law.* Andrew Koppelman. University of Chicago Press, 2002.
- ❖ *The Rights of Lesbians and Gay Men, Third Edition.* Nan D. Hunter, Sherryl E. Michaelson, and Thomas B. Stoddard. Southern Illinois University Press, 1992.
- ❖ *Your Right to Privacy, Second Edition.* Evan Hendricks, Trudy Hayden, and Jack D. Novik . Southern Illinois University Press, 1990