

Law and Politics in U.S. History

Johns Hopkins University-Center for Talented Youth

i. Course Description

This course will examine United States history through the lens of the law. Following from recent trends in intellectual history and critical legal theory, we will not study the law in isolation from society, but rather, treat it as a particularly apt location to view the major dilemmas and conflicts of American social and political history—slavery, and freedom, the emergence of market capitalism and wage-labor, women’s place and role in society, civil rights and the role of the state in American life. Consequently, our focus will be less on the “high politics” of major legal decisions and statutes but on the social, cultural and political-economic trends producing conflicts in need of resolution through the law. For instance, students will not look at *Marbury v. Madison* or *Brown v. Board of Educations* solely as the final word on judicial review or segregation, but rather as part of an ongoing and contingent process by which American’s worked out the role of government and the state in their lives and the place of African-Americans in society. Additionally, this class will provide an introduction to history, the historian’s craft and historical epistemology. Students will be asked to grapple with the difference between various kinds of historical sources, the central concepts of history—contingency and change and continuity over time, along with some of the various approaches and methodologies utilized by historians in general, and legal historians in particular.

ii. Required Texts

Melvyn Urofsky and Paul Finkelman eds., *Documents of American Constitutional and Legal History, Volumes I and II* (New York: Oxford UP, 2006)

iii. Instructional Method

Discussion, structured debate, creative essays, role-playing, informal lectures, group projects, structured note-taking, occasional quizzes, historical keywords.

iv. Requirements

- 1) Extensive, lively, informed and respectful participation in all class discussions and activities.
- 2) Completion of all assignments and readings.
- 3) Daily writing exercises and assignments
- 4) Active, respectful and intelligent cooperation with classmates during group assignments.
- 5) An open mind

v. Course Outline

Please Note: Schedule may change at instructor’s discretion

Please Note: UF-1 and UF-2 refer to *Documents of American Constitutional and Legal History, Volumes I and II*, respectively. “**Packet**” refers to handouts

Day 1 (Major Subjects: History, Law, Writing, Political Economy, Modernity, Slavery)

Morning

- 1) Introductions and backgrounds
- 2) Pre-“test”
- 2) Overview of Course (requirements, plagiarism, honor code, class rules, keywords, writing, note-taking, etc.)
- 3) What is History?-Discussion
- 4) What is the Law?-Discussion
- 5) How to read primary documents? How to read secondary documents? Discussion and lecture
- 6) George Orwell, “Politics and the English Language,” **Packet**, Reading and Activity

Afternoon

- 1) “Virginia Slave Codes,” **Packet**, Reading
- 2) The Atlantic Slave Trade and the Creation of the Modern World-Lecture
- 3) Slavery and the law in Colonial America, Discussion

Evening

- 2) **UP-1**, *Magna Carta*, pp 1-3, *Mayflower Compact*, pp 8-10, *English Bill of Rights*, 22-26 *Second Treatise on Government*, pp 26-29, *Common Sense*, 53-58
- 3) Writing Analysis

Day 2 (Major Subjects: Constitutionalism, Federalism, the State, the Idea of Freedom, republicanism v. liberalism)

Morning

- 1) Last night’s readings and writing assignments.-Discussion
- 2) Revolutionary Era Lecture
- 3) Group Activity

Afternoon

- 1) *Articles of Confederation*, pp. 73-80.
- 2) Group Reading, Constitution
- 3) Discussion, Constitution, republicanism.

Evening

- 1) Bill of Rights Group Assignment-Preparation

Day 3 (Major Subjects: Civil Liberties, Political Economy)

Morning

- 1) Bill of Rights Group Assignment-Preparation
- 2) Presentations

Afternoon

- 1) Presentations

Evening

- 1) Reading, UF-1, *Marbury v. Madison*, 170-176, *Dartmouth v. Woodward*, 207-214, *Charles River Bridge v. Warren River Bridge*, 312-316, *Gibbons V. Ogden*
- 2) Case Briefs

Day 4 (Major Subjects: Labor, Political economy, Female Dependency)

Morning

- 1) Discussion of *Marbury*, *Dartmouth* and *Charles River Bridge*
- 2) Labor and Political Economy Lecture

Afternoon

- 1) Dependency discussion
- 2) Seneca Falls Activity

Evening

- 1) Reading, UF-1, *State v. Mann*, 265-269 Genovese, "The Hegemonic Function of the Law," **Packet**, UF-1 *Dred Scott v. Sandford*, 397-410.
- 2) Writing Analysis

Day 5 (Major Subjects: Slavery, Freedom, Contract, the Coming of Civil War)

Morning

- 1) Slavery and Resistance Discussion
- 1) Dred Scott Case Prep
- 2)

Afternoon

- 1) Dred Scott Debate
- 2) Intro to Civil War

Evening (Sunday)

- 1) 13th-15th Amendments, Civil War Documents, UF-1, 110-111
Reconstruction Documents, **Packet**. TBA
- 2) Writing Analysis

Day 6 (Major Subjects: Reconstruction, Freedom, the Emergence of Segregation)

Morning

- 1) Reconstruction Discussion

Afternoon

- 1) Free Write
- 2) Reading: Woodward, Welke, **Packet** UF-1 *Plessy v. Ferguson* and Washington, "Atlanta Exposition Address," 589-596
- 3) Writing Analysis

Evening

- 1) Discussion-Why Jim Crow When?

Day 9 (Major Subjects: Gender, Property, Contract, Dependency)

Morning

- 1) Feminism and the 14th Amendment-TBA

Afternoon

- 1) Reading, *Bradwell v. Illinois*, UF-1, 536-539
- 2) Discussion, Feminism, Gender and Dependency

Evening

- 1) Reading, UF-1, *Slaughterhouse Cases*, *Munn v. Illinois*, *U.S. v. E.C. Knight*, *In Re Debs*, *Pollock* 531-536, 543-547, 577-580, 580-586 UF-2, People's Party Platform, 597-601
- 2) Free Write-law and Economics

Day 8 (Major Subjects; Equal Protection, Contracts, Labor, Industrialism)

Morning

- 1) Gilded Age: Life, Labor and Industrialization Lecture and Discussion
- 2) Pit

Afternoon

- 1) Reading and Discussion, *Lochner v. New York*, UF-2, 624-628.

Evening

- 1) Reading, Packet, Gompers, Brandeis Brief and *Muller v. Oregon*.
- 2) Group Debate Prep-*Muller v. Oregon*

Day 9 (Major Subjects: Dependency, Gender, Contract, Labor)

Morning

- 1) *Muller v. Oregon* debate

Afternoon

- 1) Progressivism and Pragmatism Lecture
- 2) Civil Liberties in war time-Discussion

Evening

- 1) Reading, Packet, Espionage Act, UF-2, Chafee, *Schenk v. U.S.*, *Abrams v. U.S.*, *Near v. Minnesota*, 656-667, 706-709.
- 2) New Deal or Sacco and Vanzetti, tba

Day 10 (Major Subjects: Immigration, Depression, Political Economy, the State, Civil Liberties)

Morning

- 1) The Strange Career of the “illegal” immigrant-discussion, tba documents.
- 2) New Deal-Lecture and Discussion

Afternoon

- 1) Final Assignment Introduction
- 2) Final Assignment Brainstorming and Research

Evening (Sunday)

- 1) Reading, UF-2, *Korematsu, Dennis, Youngstown Sheet and Tube*, 776-780, 790-797.
- 2) Writing Analysis

Day 11 (Major Subjects: Postwar Culture, Repression, Civil Liberties, Civil Rights)

Morning

- 1) Japanese Internment Lecture, McCarthyism Discussion, Lecture and Activity

Afternoon

- 1) Final Project Work

Evening

- 1) Reading, UF-2, *Shelley, Brown, Southern Manifesto* 788—790, 797-805, Packet, M.L. King, Malcolm X, Civil Rights Acts

Day 12 (Major Subjects: Civil Rights)

Morning

- 1) Civil Rights Lecture
- 2) Final Assignment Work

Afternoon

- 1) Civil Rights Discussion
- 2) Final Project Work

Evening

- 1) Reading, UF-2, *Miranda, Swann*, 846-853, 860-863, Packet, *Prince Edward County Schools, Seattle Schools*

Day 13 (Major Subjects: Feminism, Gender, Dependency)
FINAL PROJECTS DUE

Morning

- 1) Feminism and Gender lecture and discussion
- 2) Final Project Presentations

Afternoon

- 1) Final Project Presentations

Evening

- 1) Reading, *Griswold*, *Roe*, *Bowers v. Hardwick*, *Lawrence v. Texas*, 838-841, 889-896, 956-962, 1129-1134.

Day 14 (Major Subjects: Freedom, Privacy, Sexuality, Equal Protection)

Morning

- 1) Final Project
- 2) Final Project

Afternoon

- 2) Group Decision

Evening

- 1) Post-“test”
- 2) Final Project

Day 15

Morning

- 1) Video