AMERICAN LEGAL HISTORY II
Rutgers, Newark: Summer I -2022
History 21:512:266
Time: Asynchronous
Location: Online via Canvas

Instructor: Joe Dwyer
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Office Hours - Please feel free to contact me via email at any time. I will respond within 24 hours. If you would like to set up an individual conference via Zoom/Google Meet, please let me know and we can schedule that as well.

Course Description: This is a survey course on selected topics in American legal history from the late nineteenth century to today. The course will be taught primarily through the lens of three major topics - the evolution of the 14th Amendment, Civil Liberties in Wartime, and Protest and the First Amendment, Protest, and Political Speech. For the most part we will focus on constitutional law and how the Supreme Court has dealt with critical issues relevant to each of the aforementioned topics. As with any survey course, we cannot cover every issue, nor can we cover even the selected issues in depth. However, I hope that by the end of the semester you will have a good working knowledge of these topics so that you can go on to more in-depth investigation in other courses.

This course will focus primarily on how law functions in and affects society. As students of history, rather than as students of law, we have a strong interest in understanding how the law affects society as a whole, not merely how the law functions for those directly involved in the legal system – i.e. the legislators, the judges, the lawyers and the individuals. America’s legal history is inextricably linked to historical development. The case law that has defined who we are as a people has been predicated on the society in which the issues arose.

In terms of teaching method, the classes include lectures on the assigned reading materials for the day and class discussions about the readings. The assigned readings for any week will combine readings from our texts, supplemented by cases and journal articles. Finally, please note that for those of you considering a career in the law, this course is not offered as a pre-law course because there is no particular course of study that will help you get into law school. The course will, however, call for you to exercise research, critical analysis, and logical argumentation skills that will help in preparation for law school.

Course Approach - Asynchronous Learning
Each Sunday, course materials for the upcoming week will be posted in a folder on Canvas. Each week course materials will include Screen Recordings of Lectures for each topic and case excerpts from the cases relevant to each topic. You should follow the reading schedule below for the additional background readings to complete each week.

I do not anticipate having required digital “in person” meetings or discussions. I understand that people are busy and I think an asynchronous approach works well for this course. Your opportunities to grapple with course materials are in your responses to weekly questions. Not only are those weekly questions important for
your semester grade, they are an important exercise in synthesizing and understanding more deeply, course materials.

Most importantly, please be mindful that Canvas will be used for all aspects of this course. It is where your materials will be posted, your weekly assignments will be due, and where you will submit your exams.

Course Objectives:
1. To become acquainted with the basic themes and developments in American legal history;
2. To develop critical thinking skills about the interplay of law, politics, and social history;
3. To learn how to read historical legal documents;
4. To provide a historical perspective that facilitates better understanding and analysis of contemporary legal issues by grounding them in the debates of the past.

Course Requirements
1. Weekly Questions
2. Midterm exam
3. Case Project
4. Final exam

Grading:
40% Final Exam (Due via Canvas no later than 11:59 pm on 7/7.)
   - More details to be posted via Canvas
35% Midterm Exam (Due via Canvas no later than 11:59 pm on 6/17.)
25% Weekly Questions (Due every Friday of the session no later than 11:59 pm)

ALL SUBMISSIONS DUE VIA CANVAS

Grade scale (for grades submitted to transcripts):
A: 89.5-100
B+: 85-89.4
B: 79.5-84.9
C+: 75-79.4
C: 69.5-74.9
D: 59.5-69.4
F: 0-59.4

Required Texts:


Policy on Academic Integrity (Cheating and Plagiarism)
All students are required to sign the Rutgers Honor Code Pledge. To receive credit, every assignment must have your signature under the following phrase: “On my honor, I have neither received nor given any unauthorized assistance on this examination / assignment.” Plagiarism will not be tolerated. Any use of the ideas or words of
another person without proper acknowledgment of credit will result in penalties up to and possibly including a
course grade of F. Cheating on exams will result in an automatic F. Your work will be digitally checked for
plagiarism. Note that the uncited usage of uncopyrighted material such as Wikipedia entries still constitutes
plagiarism.

Please also familiarize yourself with Rutgers’ Academic Integrity Policy available at -
http://academicintegrity.rutgers.edu/

**Honor Code**

You must include the following Rutgers Honor Code Pledge on all examinations and major course
assignments submitted for grading: “On my honor, I have neither received nor given any unauthorized
assistance on this examination (assignment). (Name) (Signature – typing your name is fine) (Date).”

**Accommodation and Support Statement**

Rutgers University Newark (RU-N) is committed to the creation of an inclusive and safe learning environment
for all students and the University as a whole. RU-N has identified the following resources to further the mission
of access and support:

**For Individuals with Disabilities:** The Office of Disability Services (ODS) is responsible for the determination
of appropriate accommodations for students who encounter barriers due to disability. Once a student has
completed the ODS process (registration, initial appointment, and submitted documentation) and reasonable
accommodations are determined to be necessary and appropriate, a Letter of Accommodation (LOA) will be
provided. The LOA must be given to each course instructor by the student and followed up with a discussion.
This should be done as early in the semester as possible as accommodations are not retroactive. More information
can be found at ods.rutgers.edu. Contact ODS at (973)353-5375 or via email at ods@newark.rutgers.edu.

**For Individuals who are Pregnant:** The Office of Title IX and ADA Compliance is available to assist with any
concerns or potential accommodations related to pregnancy. Students may contact the Office of Title IX and ADA
Compliance at (973) 353-1906 or via email at TitleIX@newark.rutgers.edu.

**For Absence Verification:** The Office of the Dean of Students can provide assistance for absences related to
religious observance, emergency or unavoidable conflict (e.g., illness, personal or family emergency, etc.).
Students should refer to University Policy 10.2.7 for information about expectations and responsibilities. The
Office of the Dean of Students can be contacted by calling (973) 353-5063 or emailing deanofstudents@newark.rutgers.edu.

**For Individuals with temporary conditions/injuries:** The Office of the Dean of Students can assist students
who are experiencing a temporary condition or injury (e.g., broken or sprained limbs, concussions, or recovery
from surgery). Students experiencing a temporary condition or injury should submit a request using the
following link: https://temporaryconditions.rutgers.edu.

**For English as a Second Language (ESL):** The Program in American Language Studies (PALS) can support
students experiencing difficulty in courses due to English as a Second Language (ESL) and can be reached by
emailing PALS@newark.rutgers.edu to discuss potential supports.

**For Gender or Sex-Based Discrimination or Harassment:** The Office of Title IX and ADA Compliance can
assist students who are experiencing any form of gender or sex-based discrimination or harassment, including
sexual assault, sexual harassment, relationship violence, or stalking. Students can report an incident to the Office
of Title IX and ADA Compliance by calling (973) 353-1906 or emailing TitleIX@newark.rutgers.edu. Incidents
may also be reported by using the following link: tinyurl.com/RUNReportingForm. For more information,
students should refer to the University’s Student Policy Prohibiting Sexual Harassment, Sexual Violence, Relationship Violence, Stalking and Related Misconduct located at http://compliance.rutgers.edu/title-ix/about-title-ix/title-ix-policies/.

**For support related to interpersonal violence:** The Office for Violence Prevention and Victim Assistance can provide any student with confidential support. The office is a confidential resource and does not have an obligation to report information to the University’s Title IX Coordinator. Students can contact the office by calling (973) 353-1918 or emailing run.vpva@rutgers.edu. There is also a confidential text-based line available to students; students can text (973) 339-0734 for support.

**For Crisis and Concerns:** The Campus Awareness Response and Education (CARE) Team works with students in crisis to develop a support plan to address personal situations that might impact their academic performance. Students, faculty and staff may contact the CARE Team by using the following link: tinyurl.com/RUNCARE or emailing careteam@rutgers.edu.

**For Stress, Worry, or Concerns about Well-being:** The Counseling Center has confidential therapists available to support students. Students should reach out to the Counseling Center to schedule an appointment: counseling@newark.rutgers.edu or (973) 353-5805. If you are not quite ready to make an appointment with a therapist but are interested in self-help, check out TAO at Rutgers-Newark for an easy, web-based approach to self-care and support: https://tinyurl.com/RUN-TAO.

**For emergencies,** call 911 or contact Rutgers University Police Department (RUPD) by calling (973) 353-5111.

**Support for Online Learning**
- Link to “Technology Resources for Students” page: https://coronavirus.rutgers.edu/technology-resources-for-students/
- Contact information for OIT-Newark Help Desk: https://mytech.newark.rutgers.edu/techsupport
- Link to RU-N “Technology LaunchPad”: https://mytech.newark.rutgers.edu/tlp

**Tentative Class Schedule**

**Note - All weekly materials will be posted, as noted above, on the Sunday preceding each week of the course.**

1. Week 1 (May 31 - June 3) - Course Introduction & The 14th Amendment Part (Challenges; Citizenship & Due Process)
   a. Relevant Cases
      i. Dred Scott v. Sandford
      ii. Slaughterhouse Cases
      iii. U.S. v. Cruikshank
      iv. Civil Rights Cases
      v. Elk v. Wilkins
      vi. U.S. v. Wong Kim Ark
      vii. Insular Cases
      viii. Bush v. Gore
      ix. Regents of University of California v. Bakke
      x. Obergefell v. Hodges
xi. Plessy v. Ferguson
xii. Brown v. Board of Education

b. Readings
   i. Hall, et al. - 266 - 291, 294 - 312, 509 - 512, 517 - 524, 675 - 682, 509 - 516

2. Week 2 (June 6 - 10) - Law and the Civil Rights Era
   a. Relevant Cases
      i. Powell v. Alabama
      ii. Shelley v. Kraemer
      iii. Heart of Atlanta Motel, Inc. v. U.S.
      iv. Loving v. Virginia
      v. NAACP v. Alabama
      vi. Cox v. Louisiana
      vii. Edwards v. South Carolina
      viii. Brown v. Louisiana
      ix. Adderley v. Florida
   b. Readings
      i. Hall, et al. - 509 - 516

3. Week 3 (June 13 - 17) - The Rise of Antitrust and Labor Law - Early Industrial American and the New Deal
   a. Relevant Cases
      i. U.S. v. E.C. Knight and Co.
      ii. In re Jacobs
      iii. In re Debs
      iv. Schechter v. United States
      v. United States v. Boulder
   b. Readings

4. Week 4 (June 20 - 24) - Civil Liberties in Wartime - World War I and World War II
   a. Relevant Cases
      i. Schenck v. U.S.
      ii. Abrams v. U.S.
      iii. Debs v. U.S.
      iv. Hirabayashi v. U.S.
      v. Korematsu v. U.S.
      vi. Ex Parte Endo
      vii. Ex Parte Quirin
   b. Readings
      i. Rehnquist - Chapters 2, 3, 7, 9, 14, and 15 - 18
      ii. Hall, et al. - 429 - 437, 441 - 455

5. Week 5 (June 20 - July 1) - Civil Liberties in Wartime - The Cold War and the Global War on Terror
   a. Relevant Cases
      i. Dennis v. U.S.
      ii. Yates v. U.S.
      iii. Cole v. Young
iv. Rosenberg v. U.S.
v. Loyalty Oath/Affirmation Cases
vi. Hamdi v. Rumsfeld
vii. Hamdan v. Rumsfeld
viii. Rumsfeld v. Padilla
ix. Rasul v. Bush
x. Boumediene v. Bush

b. Readings
   i. Supplemental readings to be assigned