Northern Illinois University  
Department of Political Science  
Spring 2012  
POLS 411: Constitutional Law II  

**Civil Rights: Race, Sex, & Sexual Orientation Discrimination**

“I mean, you got the first mainstream African-American who is articulate and bright and clean and a nice-looking guy. I mean, that’s a storybook, man.”  

“Things will change most hastily. Tell those niggers to go home. ME/OUT ... Die Sem Burr 10th ... Hmz Sdn. Cr. What time? The VA Tech shooters messed up w/having only one shooter...”

—Anonymous message written in black ink on the wall of a women’s restroom in Grant Hall Tower D, Northern Illinois University, December 8, 2007.

Black students from Northern Illinois University gathered for a press conference at New Hope Missionary Baptist Church in DeKalb on Monday December 10, 2007 to decry the way the university responded to racist threats found at a residence hall. NIU President John Peters declined to meet with the group Sunday but did attend their Monday press conference. The University cancelled scheduled finals and closed campus that day. African-Americans compose nearly 13% of the university’s 19,000 undergraduates. Leroy Mitchell, New Hope’s pastor, said many African-American students expected racism to end when they set foot on a college campus. “They believe they are coming to a type of utopia,” he said. “That’s a myth. Wherever you go, that’s going to happen.” *(Chicago Tribune* photo by Tom Van Dyke / December 10, 2007).
“[Senate Majority Leader] Harry Reid [D-NV] was wowed by Obama’s oratorical gifts and believed that the country was ready to embrace a black presidential candidate, especially one such as Obama -- a ‘light skinned’ African-American ‘with no Negro dialect, unless he wanted to have one,’ as he said privately.”


Civil rights and civil liberties are distinct concepts. Civil rights emanate from the concept of equality. Unlike civil liberties which are personal freedoms protected by the Bill of Rights (such as religious freedom, free speech, privacy, etc.), civil rights issues involve the status of persons with shared characteristics who have been historically disadvantaged in some way. Therefore, issues of race, sex, and sexual orientation will be the primary focus of our discussion, though we will touch on other issues such as economic status and genetics. We will read representative Supreme Court cases and other material in order to understand how civil rights have developed in American political history. In addition to our readings and in-class discussions, students will participate as justices in moot court decision-making exercises. In the end we will critically assess the role of the Supreme Court. Have the justices done too little or gone too far in the area of civil rights? Is discrimination a thing of the past?

**Learning Objectives:**

1. To think critically about the American form of government, particularly the Supreme Court.
2. To gain experience and knowledge by thinking critically about and participating in Supreme Court decision-making exercises.
3. To gain knowledge of the process and politics of constitutional decision-making.

**Required Text:**


Course Requirements

Mid-Term Exam

The mid-term will be an on-line, objective test consisting of both true-false and multiple choice questions. The material covered will be the cases listed on the syllabus up to the mid-term exam date. The test will be available on Blackboard for a 24-hour period. You may take the test at any time during that window. Once you begin the exam, you will have 30 minutes to answer 50 questions. Each question is worth 2 points each for a total of 100 points.

Moot Court and Paper

Participation in the Supreme Court decision-making exercise and paper - all students are required to participate in the exercise acting as a Supreme Court Justice. Failure to attend a conference day will result in a reduction of one full grade on your overall paper grade for each conference missed. No exceptions. Each student is required to write one 5-6 pp. paper written in the form of an opinion (either majority, concurring, or dissenting) on one moot court case. IT IS ESSENTIAL THAT YOU FOLLOW THE SUGGESTIONS ON THE “PAPER TIPS” DOCUMENT located in the “course documents” section of Blackboard.

Extra Credit

You may write additional opinions for extra credit. One quality 2-3-page paper that covers 1/3 of the required opinions is worth 1/3 a grade boost on your main paper grade. A quality 4-page paper that covers 2/3 of the required opinions is worth 2/3 a grade boost on your main paper grade. A quality 5-6-page paper that covers all of the required opinions is worth 1 full grade boost on your main paper grade. The maximum amount of extra credit you can gain is one full grade boost—that means one 5-6 page paper, or one 2-3 page paper and one 4 page paper, or three 2-3 page papers. See the course documents section for further details.

Final Exam

The final exam is the same format as the midterm but will only include the course material covered AFTER the midterm exam.
Grading System

Final grades will be determined by the following scale:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Percent</th>
<th>Grading Definition</th>
<th>Expectation</th>
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</thead>
<tbody>
<tr>
<td>A</td>
<td>90-100</td>
<td>Excellent</td>
<td>Attends every class, reads assigned material, takes notes/briefs on readings, regularly participates in class, studies for tests and writes papers based on notes/briefs, uses moot court exercises to discuss material to be covered in papers, takes advantage of the instructor’s office hours.</td>
</tr>
<tr>
<td>B</td>
<td>80-89</td>
<td>Very Good</td>
<td>Attends most classes, reads some of the assigned material, takes notes in class, rarely participates.</td>
</tr>
<tr>
<td>C</td>
<td>70-79</td>
<td>Average</td>
<td>Attends some classes, does not do the assigned reading, takes notes in class, never participates, studies for tests and writes papers based on summary information found on internet.</td>
</tr>
<tr>
<td>D</td>
<td>60-69</td>
<td>Below Average</td>
<td>Rarely if ever attends class, does not do the assigned reading, uses summary information found on the internet to study for exams and write papers.</td>
</tr>
<tr>
<td>F</td>
<td>0-59</td>
<td>Failure</td>
<td>Never attends class, does not do the assigned reading, fails to understand course material.</td>
</tr>
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Grade Breakdown:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>% of Total Grade</th>
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<tbody>
<tr>
<td>Mid-Term Exam</td>
<td>30%</td>
</tr>
<tr>
<td>5-6 Page Moot Court Paper</td>
<td>40%</td>
</tr>
<tr>
<td>Final Exam</td>
<td>30%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
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Course Policies

1. Extracurricular Activities - It is your responsibility to notify me in advance of any activities that will disrupt your attendance. If your activities make it impossible for you to attend classes each week, you should consider withdrawing from the course. Material is covered in class that cannot be found in the course readings.

2. Late Work - Anything turned in late will be marked down one-third grade for every day it is overdue. Exceptions are made only in the most extraordinary circumstances and I will require some sort of documentation to make any accommodation.

3. Cheating and Plagiarism - PLAGIARISM, SIMPLY DEFINED, IS TAKING SOMEONE ELSE’S WORDS OR IDEAS AND REPRESENTING THEM AS BEING YOUR OWN. It is specifically prohibited by University regulations, which state:

   Good academic work must be based on honesty. The attempt of any student to present as his or her own work that which he or she has not produced is regarded by the faculty and administration as a serious offense. Students are considered to have cheated if they copy the work of another during an examination or turn in a paper or an assignment written, in whole or in part, by someone else. Students are guilty of plagiarism, intentional or not, if they copy material from books, magazines, or other sources without identifying and acknowledging those sources or if they paraphrase ideas from such sources without acknowledging them. Students guilty of, or assisting others in, either cheating or plagiarism on an assignment, quiz, or examination may receive a grade of F for the course involved and may be suspended or dismissed from the university. (Undergraduate Catalog)

4. Statement Concerning Students with Disabilities - Under Section 504 of the Rehabilitation Act of 1973, NIU is committed to making reasonable accommodations for persons with documented disabilities. Those students with disabilities that may have some impact on their coursework and for which they may require accommodations should notify the Center for Access-Ability Resources (CAAR) on the fourth floor of the Health Services Building (753-1303). CAAR will assist students in making appropriate accommodations with course instructors. It is important that CAAR and instructors be informed of any disability-related needs during the first two weeks of the semester.

5. Undergraduate Writing Awards - The Department of Political Science will recognize, on an annual basis, outstanding undergraduate papers written in conjunction with 300-400 level political science courses or directed studies. Authors do not have to be political science majors or have a particular class standing. Winners are expected to attend the Department's spring graduation ceremony where they will receive a certificate and $50.00. Papers, which can be submitted by students or faculty, must be supplied in triplicate to a department secretary by the end of February. All copies should have two cover pages - one with the student's name and one without the student's name. Only papers written in the previous calendar can be considered for the award. However, papers completed in the current spring semester are eligible for the following year's competition even if the student has graduated.

6. Department of Political Science Web Site - Undergraduates are strongly encouraged to consult the Department of Political Science web site on a regular basis. This up-to-date,
Course Calendar

Race Discrimination

Week 1 Introduction & 19th Century Racial Discrimination
T Jan 17 Introduction, syllabus review, how to brief a case. Read optional background information: introductory material in Epstein & Walker, the Constitution in the back of the book, and Kerr’s “How to Read a Legal Opinion” in the course documents section of Blackboard.
TH Jan 19 Dred Scott v. Sandford (1857) (on-line only); Plessy v. Ferguson (1896).

Week 2 Early 20th Century Racial Discrimination
T Jan 24 Missouri ex rel. Gaines v. Canada (1938) (on-line only); Shelley v. Kraemer (1948); In-class film excerpt: New York: Episode Six (1929-1941)—section on racial segregation in housing, “racial redlining” (10 minutes). See also: racial integration/segregation map of Chicago and other cities.
TH Jan 26 Sweatt v. Painter (1950); McLaurin v. Oklahoma State Regents (1950) (on-line only).

Week 3 Racial Discrimination and the Warren Court

Week 4 Racial Discrimination from the Warren to the Burger Courts
T Feb 7 Heart of Atlanta Motel v. United States (1964) (on-line only); Loving v. Virginia (1967).
Week 5 Racial Discrimination from the Burger to the Rehnquist Courts


Week 6 Racial Discrimination in the Rehnquist Court


Week 7 Racial Discrimination in Contemporary Public Schools & Affirmative Action


Sex Discrimination

Week 8 Sex Discrimination: Foundations I

T Mar 6 Conference Day I -- Justices meet to deliberate and vote on cases. The Midterm exam will be available on-line via Blackboard for a 24-period at the end of class.

TH Mar 8 Bradwell v. Illinois (1873) (on-line only); Minor v. Happersett (1875) (on-line only).

Week 9 Spring Break

Week 10 Sex Discrimination: Foundations II

T Mar 20 Muller v. Oregon (1908) (on-line only) [Optional: Read some of the famous “Brandeis Brief” from Muller]; Goesaert v. Cleary (1948) (on-line only).
TH Mar 22 Hoyt v. Florida (1961) (on-line only); Reed v. Reed (1971).

Week 11 Sex Discrimination & the Burger Court

TH Mar 29 Orr v. Orr (1979) (on-line only); Michael M. v. Superior Court of Sonoma County (1981) (on-line only).
Week 12 Sex Discrimination & the Burger and Rehnquist Courts

Week 13 Conference Day II
T Apr 10 Conference Day II - Justices meet to deliberate and vote on cases.
TH Apr 12 No Class. Annual Meeting of the Midwest Political Science Association.

Other Forms of Discrimination

Week 14 Genetics, Economics, Illegal Immigrants, and Non-residents

Week 15 Other Forms of Discrimination & Gay Rights

Week 16 Gay Rights and the Rehnquist Court
TH May 3 Lawrence v. Texas (2003). Final opinions from Conference II and all extra credit opinions due.

Week 17 FINAL EXAM will be available on Blackboard for a 24-hour period beginning on Tues. May 8, 2pm.