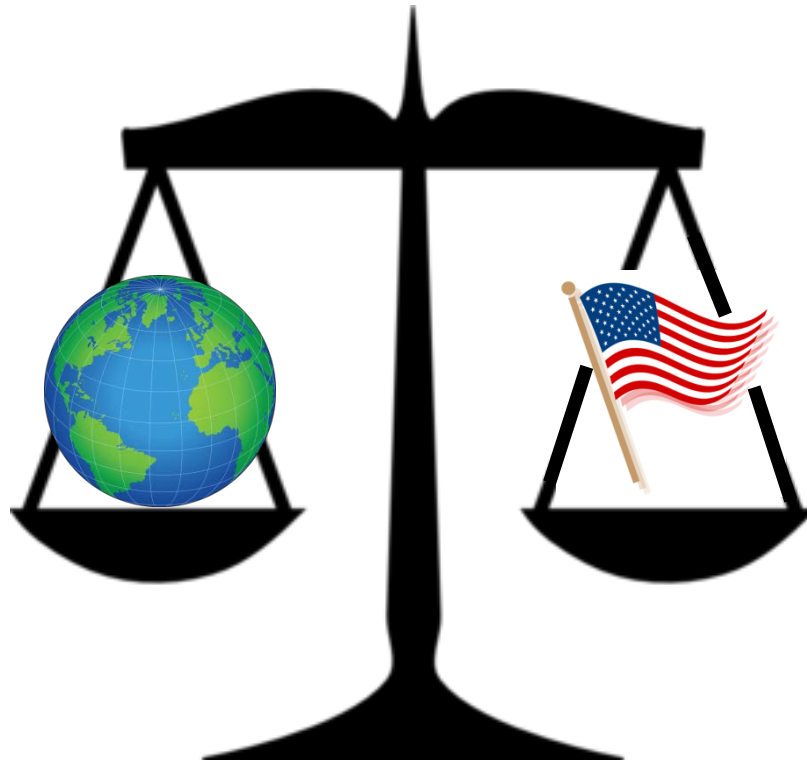


Law and the U.S. Constitution in Global History



Law 101, 4 Credits, Spring 2016

Fulfills GE Requirements for Social Analysis & Citizenship in a Global Era



Class Meetings	Instructor	Office Hours
[Day Time] Law [#]	Professor Sam Erman Law 410 serman@law.usc.edu 213.740.6372	[Day Time] and by appt. Law 410
[Day Time] Law [#] [Day Time] Law [#] [Day Time] Law [#]	[TA 1 Name] [Bldg. #] [email] [phone]	[Day Time] and by appt. [Place]
[Day Time] Law [#] [Day Time] Law [#] [Day Time] Law [#]	[TA 2 Name] [Bldg. #] [email] [phone]	[Day Time] and by appt. [Place]

*Professor Erman's Assistant, Shirly Kennedy, is in Law 401, skennedy@law.usc.edu, 213.740.2569



COURSE DESCRIPTION

This is a course about law and constitutionalism within and beyond the United States. By examining key constitutional moments involving race, rights, and revolutions, students will explore how legal meaning changes over time. The reading is primarily that of lawyers: judicial opinions and constitutions. Students will also engage visual media like movies and television programs as part of exploring the cultural reception of legal change and the role of popular culture in altering law.

One of the insights that the course seeks to convey is the extent to which legal ideas have crossed and recrossed borders. Here, the approach is both comparative and dynamic. It is comparative in asking how the U.S. Constitution differs from and resembles the organic charters of other nations (and groups of nations). Such questions clarify what choices the United States and other nations have made and illuminate alternatives that they could have – and still could – pursue. The approach is dynamic in recognizing that members of nations do not act in isolation as they construct constitutional systems. In interpreting the U.S. Constitution, U.S. jurists have turned to and altered many ideas with foreign pedigrees. In turn, as members of other polities elaborated their own constitutional schemes, they have borrowed and reworked aspects of the U.S. approach.

COURSE OBJECTIVES

This course aims to teach students legal and historical approaches to analyzing important social problems. Students will learn to read judicial opinions and legislative enactments and to use those sources as evidence for legal and historical arguments.

REQUIRED MATERIALS

All texts and media will be available on the blackboard site under content except as indicated below. Students must purchase a TurningPoint RF polling “clicker” (register @Blackboard/Tools) and 3 blank 8.5” x 11” blue books for exams (give these to your TA in section by week 3).



EXPECTATIONS

Blackboard Quiz on Academic Integrity (Mandatory)

You are required to earn a perfect score on a quiz based on a 15-minute online tutorial designed by USC library and Student Judicial Affairs. The web-based tutorial is followed by a quiz, but that is NOT the Blackboard-based quiz we require you to take. Do NOT take the quiz on the same site as the tutorial. Only when you have taken the Blackboard-based quiz will your score appear in Blackboard’s “My Grades.” Students who ignore these instructions and fail to take the correct quiz will earn no credit. You may take the quiz as many times as you like, but you must earn a perfect score no later than 5pm Wednesday of Week 3. After that deadline, we will reduce your overall course grade by 5% for every day you fail to do this.

Exams (35% of final grade)

The midterm (15%) and final (20%) examinations will cover assigned readings and media and material presented during lecture and section. They will be essay based. The midterm will cover all material in the course up to that point. The final exam will primarily but not exclusively cover material from after the midterm. You cannot pass the course unless you take both the midterm and

the final exam. Lectures given during the drop-add period will be videotaped and made available online to all students.

Papers (40% of final grade)

Students will write one 5-7 page paper (15%) and one 7-10 page paper (25%). For each paper, students will be provided with several topics to choose among. Students may also design their own paper topic in consultation with their section leader. The hallmarks of an excellent paper are: (1) original and critical argument; (2) organized presentation of evidence and ideas; (3) evidence that supports the argument and clear explanations of why that is; (4) well-chosen, readable, error-free prose. In particular, a paper should have a clear thesis that is laid out in the first paragraph. Each subsequent paragraph should advance that argument. Each paragraph should also have a topic sentence that foreshadows what the paragraph as a whole will say while also signaling how the paragraph advances the argument. Section leaders are available to help students at every stage of the writing process. The USC Dornsife Writing Center is also an excellent resource for student writers (<http://dornsife.usc.edu/writing-center/>). Papers will be graded down 1/3 of a grade for each day late. Thus, papers that would have received an A- if turned in on time will receive a B+ if turned in one day (up to 24 hours) late. You cannot pass the course unless you turn in both papers.

Lectures & Quizzes (5% of final grade)

Students are expected to attend each lecture and be on time. Quizzes occur at the beginning of each lecture (except for the first one) and focus on content from the prior lecture. Each quiz includes 2 multiple-choice questions that students will answer by clicker. Non-participating students receive a zero on the quiz. Participating students receive full credit if they get either question correct and half credit if they get neither question correct. Students' 8 lowest quiz scores are dropped. Students who join the class late will receive zeroes on the quizzes prior to their joining the course (that is, those quizzes will count against the 8 quizzes that they may drop).

Section (15% of final grade)

Students are expected to complete the assigned reading, media, and other assignments prior to section and to attend section consistently and on time. Each student may be late to section once without penalty and may also miss one section without penalty. All other tardiness and absence will result in reductions in students' section-participation scores. Those reductions will be smaller if students provide their section leaders with advance notice. Participation in section will be measured by students' preparation, the thoughtfulness of students' comments, how well students listen to and respond to each other, and performance on the assignments in weeks 4, 7, and 9.

Media & Blackboard (5% of final grade)

Each week, students will be assigned a film or other form of media. Except where otherwise noted below, students should screen the media online before section and post at least two comments each week to a relevant Blackboard discussion thread. Participation on Blackboard will be measured by the quality of students' posts, which are graded on a SAT/UNSAT/ZERO basis, and by performance on the assignment in week 8.



STATEMENT ON ACADEMIC INTEGRITY

USC seeks to maintain an optimal learning environment. General principles of academic honesty include the concept of respect for the intellectual property of others, the expectation that individual work will be submitted unless otherwise allowed by an instructor, and the obligations both to protect one's own academic work from misuse by others as well as to avoid using another's work as one's own. All students are expected to understand and abide by these principles. *Scampus*, the Student Guidebook, contains the Student Conduct Code in Section 11.00, while the recommended sanctions are located in Appendix A: <http://www.usc.edu/dept/publications/SCAMPUS/gov/>. Students will be referred to the office of Student Judicial Affairs and Community Standards for further review should there be any suspicion of academic dishonesty. The review process can be found at <http://www.usc.edu/student-affairs/SJACS/>.

STATEMENT FOR STUDENTS WITH DISABILITIES

USC adheres to a non-discrimination policy; see http://www.usc.edu/dept/publications/cat2010/about_catalogue/nondiscrimination_policy.html

Any student requesting academic accommodations based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. Please be sure the letter is delivered to me (or to your TA) as early in the semester as possible. DSP is located in STU 301 and is open 8.30 a.m.- 5.00 p.m., Monday through Friday. The phone number for DSP is (213) 740-0776.



TECHNOLOGY POLICIES

Blackboard

This course presumes that students have regular access to and facility with the internet, including the course website on Blackboard. The URL for the site is: <https://blackboard.usc.edu/>. To access it, you must activate your USC e-mail account, which you can do by visiting the ITS activation page at <http://www.usc.edu/firstlogin>. For assistance, contact Blackboard's 24 hour tech support online or at 213-740-5555.

Clickers

Clickers are required at all lectures. After you buy a Turningpoint RF polling device from the USC bookstore, log into Blackboard and register the device under the "Tools" menu for this course. Label your clicker with your contact information in case you misplace it. For help with clickers, please contact the manufacturer's technical support hotline and/or USC's Center for Scholarly Technology. If your clicker stops working and it's not the fault of the battery or a problem of being on the wrong "channel," you can exchange the clicker for a working one at the bookstore (not all of the employees there may be aware of this policy, so if you have a problem, please ask for Raymond McDermott).

Cell Phones, Laptops, Tablets, Etc.

In-class use of laptops, tablets, cell phones, and similar devices is prohibited except as part of an official disability accommodation.

I. THE IDEA OF A CONSTITUTION

- Week 1 A. Written & Unwritten Constitutions. Democracy, Popular Sovereignty, & Representation
 B. Separation of Powers, Limited Government, and the Bill of Rights
 Section: Guest speaker on how to read legal materials
 Reading: Matherson v. Marchello, 473 N.Y.S.2d 998 (1984) (excerpts); Yonaty v. Mincolla, 945 N.Y.S.2d 774 (2012) (excerpts)
 Media: *John Adams Miniseries*, Part I: Join or Die (HBO, 2008)
- Week 2 A. The British Constitution in the Colonies
 B. The British Constitution in the States
 Reading: Declaration of Independence
 Media: *Mary Silliman's War* (1994)

II. REVOLUTION, SLAVERY, & EMPIRE

- Week 3 A. The Constitutional Convention
 B. Ratification and the Bill of Rights
 Reading: U.S. Constitution as ratified (identify all provisions concerning citizenship or slavery); Derrick A. Bell, *The Chronicle of the Constitutional Contradiction, in And We Are Not Saved* (New York: Basic Books, 1987), 28-42
 Media: *Toussaint L'Ouverture*, Part 1 (2012) (English subtitles)
- Week 4 A. French & Haitian Revolutions
 B. The Spanish Empire in the Age of Revolutions
 Reading: Declaration of the Rights of Man and Citizen; Bill of Rights (and get a head start on next week's reading, which is substantial)
 Media: *Toussaint L'Ouverture*, Part 2 (2012) (English subtitles)
- Week 5 A. The Fugitive Slave Clause in Practice: the Fugitive Slave Law of 1793, Prigg v. Pennsylvania (1842), and the Compromise of 1850
 B. Illegal Enslavement
 Reading: Solomon Northrup, *Twelve Years a Slave* (New York, Millery, Orton & Mulligan, 1855)
 Media: *Twelve Years a Slave* (2013)
- Week 6 A. Jus Soli Citizenship
 B. Dred Scott and Federal Power over Slavery

Reading: *Scott v. Sandford*, 60 U.S. 393 (1857) (pages 399-400 (through the statement of the 2 questions, ¶ spanning pages 401-402, 3d ¶ on page 403 through ¶ spanning pages 426-427)

Media: *Amistad* (1997)

Week 7

A. Midterm

Paper: Topics for 5-7 page paper distributed at the end of class, emailed to all enrolled students, and posted to blackboard site

III. RACE & RIGHTS AFTER SLAVERY

B. Reconstruction

Reading: 25 pages of your choosing from the *Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States*, vols. 1-13 (1872), available at

<http://onlinebooks.library.upenn.edu/webbin/metabook?id=insurrection1872>.

Assignment: Analyze one page from the above *Report*. Come to class prepared to discuss why you chose your page, who testifies, what events and other people it describes, and how those events and people fit into the broader themes of Reconstruction. Also, be prepared to discuss what role law does or does not play in these events.

Media: *Glory* (1989)

HALFWAY MARK: By this point in the course, students will be able to gain a preliminary sense of how they are performing in the class. Each will have already received grades on 12 quizzes and a midterm.

Week 8

A. Redemption?

B. Reconstruction before the Court

Reading: *Plessy v. Ferguson*, 163 U.S. 537 (1896)

Media Assignment: Locate an artifact on ebay related to Reconstruction, its rollback, or the Spanish American War. Post the listing to the discussion board along with a 300-word analysis. In your discussion, address the historical significance of the item, its price on ebay, the description of the item on ebay and what it seeks to convey about the historical context of the item, to whom the item is being marketed, and what the seller presumes about potential buyers' understandings about the historical context of the item.

Week 9

A. White Supremacists Seek Political Lockup

B. Jurists Contemplate the Spanish American War & The *Insular Cases* of 1901

Reading: Brief of Petitioner, No. 225, *Gonzales v. United States*, 192 U.S. 1 (Nov. 30, 1903)

Media Assignment: Visit the library. The library staff will lay out a variety of primary sources involving race and law in the United States. Spend an hour to choose and examine one. Make a photocopy, scan, or photograph of the document. Bring the image to section and be prepared to discuss it there.

Week 10

A. White-Supremacist Political Lockup Arrives

B. *Gonzales v. Williams* (1904)

Reading: Selected writings by Isabel Gonzalez and Domingo Collazo.

Assignment: First paper (5-7 pages) due.

Media: *Birth of a Nation* (1915), available at <http://www.youtube.com/watch?v=iEznh2JZvrI>

Week 11

A. Empire and Reconstruction

Media: *Gone with the Wind* (1939)

IV. WAR & HUMAN RIGHTS

B. World War I and the Anti-Colonial Feint

Reading: Luis Muñoz Rivera to Woodrow Wilson, Nov. 18, 1913, Maryland Branch of the National Archives and Records Administration, Record Group 350, Series 5A, File 26429-33; *A Civil Government for Porto Rico* (Washington, D.C.: Government Printing Office, 1916), 15-16; *Government for Porto Rico* (Washington, D.C.: Government Printing Office, 1916), 62; 53 *Congressional Record* 7471-7473 (1916); 54 *Congressional Record* 2250, 4170 (1917); Woodrow Wilson, Fourteen Points Speech (Jan. 8, 1918)

Week 12

A. The Japanese and German Post-War Constitutions

B. The Universal Declaration of Human Rights

Reading: Preamble and Chapter I-III and IX-X of the Constitution of Japan (1947); Preamble and Arts. 1-19 of the Basic Law for the Federal Republic of Germany (1949); The Universal Declaration of Human Rights

Paper: Paper topics for 7-10 page paper distributed in section, emailed to all enrolled students, and posted to the blackboard site

Media: *Separate But Equal* (1991), part 1

Week 13

A. The Lead up to *Brown v. Board of Education* (1954)

B. Desegregation

Reading: *Brown v. Board of Education*, 347 U.S. 483 (1954)

Media: *Separate But Equal* (1991), part 2

V. AFFIRMATIVE ACTION

Week 14 A. U.S. Affirmative Action I

B. U.S. Affirmative Action II

Reading: *Fisher v. University of Texas at Austin*, ___ U.S. ___ (2013)

Media: “Affirmative Action: Diversity or Double-Standard,” *60 Minutes* (2000), available at: <http://www.cbsnews.com/news/affirmative-action-diversity-or-double-standard/>; “True Colors – Racial Discrimination in Everyday Life 1/2,” *Primetime Live* (Nov. 26, 1992), <http://www.youtube.com/watch?v=YyL5EcAwB9c>; & “True Colors – Racial Discrimination in Everyday Life 2/2,” *Primetime Live* (Nov. 26, 1992), <http://www.youtube.com/watch?v=gOS3BBmUxvs>

Week 15 A. Affirmative Action in South Africa

B. Affirmative Action in India and Brazil

Reading: *Roper v. Simmons*, 543 U.S. 551 (2005) (read all of the majority opinion (focusing on Part IV); Part II.D of O’Connor’s concurrence, and all of Scalia’s dissent (focusing on Part III))

Media: *India Untouched* (2007)

Week 16 **Final Exam.** It is the university and the course policy that all students must take the final exam at the assigned date and time.

Final papers due by email to section leaders by midnight on the last day of exams.