**Race, Citizenship, and the American Constitution  
Legal 253**

**Fall 2020**

**Tues/Thurs 11:30-12:45**

**Zoom meeting ID:** 980 3870 1542

**Passcode:** LS253

**Course Description**

This course examines the role that law and courts, specifically the U.S. Supreme Court, have played in shaping, defining, and constructing the concepts of race and American citizenship over time. We will explore topics such as the legal definition of whiteness, racial restrictions in immigration and citizenship law, the 14th Amendment’s expansion of citizenship to include former slaves, the legal rights of non-citizens, the ambiguous racial and citizenship status of Native Americans, and the significance of the enduring belief in a colorblind Constitution. The course is designed to help equip students to analyze contemporary developments in the politics of race and immigration by giving them a sense of the history behind key concepts and debates.

**Professor**

Rebecca Hamlin, Associate Professor of Legal Studies and Political Science

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Office Hours: 1-2pm Tuesdays, 10-11am Wednesdays, and by appointment

Zoom meeting ID: 213 197 1656

**Course Goals and Learning Objectives**

By the end of the semester, students will be able to:

• identify and describe key moments in the development of American constitutional rhetoric about race and citizenship.

• analyze cases and categorize arguments into various schools of thought.

• evaluate legal arguments for logical consistency.

• formulate independent arguments about contemporary constitutional controversies.

**Online Learning Format**

The course will follow a weekly module model. For each week, there is a set of readings posted on Moodle for you to digest. Our Tuesday meetings will be asynchronous (no Zoom). Instead, you will familiarize yourself with the readings and watch the lectures that I have posted for that week’s topics. In preparation for Thursday discussion, you will turn in a short response assignment and then attend a synchronous discussion on Zoom during our class meeting time. Thursday discussions are very important for the class. There are only 13 of them and I expect you to attend if you can. If, for some reason you are unable to attend a discussion on a particular week, you may watch the recorded discussion and then email me a 250-300 word reflection on what the class discussion clarified for you and what lingering questions you still have.

**Final Course Grade Components**

Class Citizenship 15%

Prep Assignments 15%

Take-Home Midterm I, due Tuesday, October 6 at 10pm 20%

Take-Home Midterm II, due Tuesday, November 10 at 10pm 20%

Take-Home Final Exam, due Thursday, December 3 at 1pm 30%

**Class Citizenship**

Class Citizenship includes participation in class Zoom discussions (or the make-up assignment if you cannot attend). I expect you to come to discussion prepared to ask questions about the arguments laid out in the readings and share your opinions, both in small breakout groups and in plenary discussions. I know that some students fear and dread speaking up in class. I was one of those students when I started college! I am willing to get creative. So, if you are ever concerned about your Class Citizenship grade during the semester, please ask me for feedback. I would be happy to strategize with you about how to help you fulfill this portion of the course grade. Because of the extraordinary circumstances of this pandemic, I assume that many of you are dealing with some major stressors that can distract you and sometimes even make it impossible to focus on classwork. I will try to be as understanding as I possibly can about such things, and will give you the benefit of the doubt if you make an effort to stay engaged.

**Prep Assignments**

For each week’s material there is a question (or sometimes a couple of questions) posted on the Moodle course page, asking you to write a brief response (325-375 words in total) to the readings and lectures. Prep assignments are designed to help you prepare for class discussion. Please email me your prep assignment no later than 11:30am on Thursday (ie, before discussion begins). If you cannot attend class discussion, you may still email me your prep assignment as long as you send it before class begins.

I will grade prep assignments either check-plus (100), check (85), check-minus (70), or not completed (0). At the end of the semester, I will drop the three lowest grades and average the rest together to calculate the final grade. Each prep assignments is worth about 1.5% of your final course grade. Skipping a bunch will hurt you. But, getting a check instead of a check plus on a prep assignment reduces your final grade by about one quarter of one percent, so please don’t stress out about them too much. And, if you are having trouble with them, please come see me!

If you see a news item that you believe connects to the themes of the course, you may write a prep assignment about that unfolding story and explain which course themes and readings it highlighted for you. You can use up to three of these short essays to replace prep assignments that you missed or did not do well on. If you are unsure whether a particular item is a good fit, I’m happy to help.

**Exams**

All three exams will be open book and open note. I will post them 7-10 days before they are due. They consist of short essays reflecting on and comparing course materials. No outside research is required or recommended for completing these exams. I will provide a grading rubric along with the posted exam on Moodle.

**Other Course Policies**

**Names and Pronouns**

I use the pronouns she/her and I preferred to be called Rebecca, Professor Hamlin, or Dr. Hamlin. Please don’t call me Mrs. Hamlin - that’s my mom! If you would prefer to be called a name or nickname that is not on the Spire roster, please let me know and I will honor your preference. Also, please feel free to tell me your preferred pronouns if you haven't entered them into Spire.

**Extensions**

Every student is automatically granted two 24 hour extensions that enables you to turn in one of the midterms two days late, or each midterm one day late. Please use your extensions if you need more time for any reason. I do not want you to give an explanation or ask in advance for permission to use your extension. You will not get any other extensions. After you have used them up, the late penalty is a 3 percentage point deduction per 24 hour period. Note: You may not use the extension for the final exam because of its late due date near the end of finals week.

**Accommodation**

I am committed to providing an equal educational opportunity for all students.  If you have a documented physical, psychological, or learning disability on file with Disability Services (DS), you may be eligible for reasonable academic accommodations to help you succeed in this course.  If you have a documented disability that requires an accommodation, please notify me within the first two weeks of the semester so that we may make appropriate arrangements. If new developments arise during the course of the semester that make it difficult for you to complete your work, please tell me as soon as possible and we can work together to figure something out.

**Academic Honesty**

All written work must be your own. Any incident of academic dishonesty will be brought to the University’s judicial process, and will likely result in a failing grade for the course. Please review the UMass policies regarding academic integrity and please see me soon if you have any questions about what constitutes proper citation in the context of this course. Finally, students agree that, by taking this course, all required assignments may be subject to submission for textual similarity review to www.turnitin.com or a similar plagiarism prevention system.

(<http://www.umass.edu/dean_students/codeofconduct/acadhonesty/)>

**Reading Supreme Court cases**

Most readings in this course are U.S. Supreme Court cases, which are available online. However, since unedited cases can be close to 100 pages long, I have posted edited versions to Moodle. Please read these edited cases carefully in preparation for class. I recommend marking or making a note of key passages that you would like to discuss. We will spend time going over the text together. Supreme Court cases can be very dense and filled with jargon. Some people call legal jargon “legalese”. It is not always easy to know what the Court is arguing in a case, especially the ones written in the 19th Century. It is absolutely fine with me if you read a summary of the case before (or after) you read it. You must still read the actual text because the point of the class is to expose you to the rhetoric the Court uses to justify its opinions. But, getting an overview at [oyez.org](https://www.oyez.org/) is fine with me and not cheating. Just don’t copy and paste any of the summary into your prep assignments. Trust me, I can tell when people do that. ☺

**Course Outline**

**Week 1: The Founding and Early Debates**

***August 25 and 27***

Readings:

U.S. Constitution and Bill of Rights (1791)

Jefferson “Notes on the State of Virginia” (1787)

Lectures:

Course Introduction

Looking for course themes in the Constitution

**Week 2: Rights Before the Civil War**

***September 1 and 3***

Readings:

*Johnson v. McIntosh* (1823)

President Andrew Jackson's Message to Congress 'On Indian Removal' (1830)

*Cherokee Nation v. Georgia* (1831)

*Worchester v. Georgia* (1832)

*Barron v. Baltimore* (1833)

*Dred Scott v. Sanford* (1857)

Lectures:

Native American Displacement

The Bill of Rights and Barron’s Warf

Dred Scott

**Week 3: Post-Civil War Amendments**

***September 8 and 10***

Readings:

13th Amendment (ratification debates)

14th Amendment (ratification debates)

*Slaughterhouse cases* (1873)

Lectures:

Ratification Debates

Slaughterhouse

\*\*\* Note: we may do a brief Zoom on both days this week \*\*\*

**Week 4: The Contours of Citizenship in the 1880s**

***September 15 and 17***

Readings*:*

*Civil Rights Cases* (1883)

*Elk v. Wilkins* (1884)

*Yick Wo v. Hopkins* (1886)

Lectures:

Applying the New Amendments to African Americans

…and Native Americans

…and Immigrants

**Week 5: Immigration and Citizenship at the Turn of the 20th Century**

***September 22 and 24***

Readings:

*Chae Chan Ping v. United States* (1889)

*Fong Yue Ting v. United States* (1893)

*Plessy v. Ferguson* (1896)

*United States* *v. Wong Kim Ark* (1898)

Lectures:

Chinese exclusion and plenary power

Plessy

Birthright Citizenship

\*\*\* Midterm # 1 posted on Moodle on Thursday \*\*\*

**Week 6: Nativism in the 1920s**

***September 29 and October 1***

Readings:

*Ozawa v. US* (1922)

*US v. Thind* (1923)

1924 Immigration Act

1924 Indian Citizenship Act (and reactions)

*Ex Parte Green* (1941)

Lectures:

Whiteness and Nativism

Indian Citizenship

**Week 7: Segregation and Constitutional Rights in the Depression Era - WWII**

***October 6 and 8***

\*\*\* Take-Home Midterm I due at 10pm on Tuesday \*\*\*

Readings:

*Lum v. Rice* (1927)

*Powell v. Alabama* (1932)

*Korematsu v. United States* (1944)

Lectures:

Introduction to school segregation

Incorporation of the Bill of Rights

Japanese Internment

**Week 8: Early Desegregation and Cold War Immigration Policy**

***October 13 and 15***

Readings:

*Smith v. Allwright* (1944)

*Shelley v. Kraemer* (1948)

*Knauff vs. Shaughnessy* (1950)

*Shaughnessy vs. Mezei* (1953)

Lectures:

The beginnings of desegregation

The plenary power doctrine in the Cold War

**Week 9: The Warren Court and Desegregation**

***October 20 and 22***

Readings:

*Mendez,* et al *v. Westminster School District of Orange County* (9th Cir. 1947)

*Hernandez v. Texas* (1954)

*Brown v. Board of Education* (1954)

*Brown v. Board of Education II* (1955)

*Cooper v. Aaron* (1958)

Lectures:

The path to Brown

The Warren Court and Brown I

“All Deliberate Speed”

**Week 10: The Big Three Pieces of Civil Rights Legislation, 1964-65**

***October 27 and 29***

Readings:

*Heart of Atlanta Motel v. U.S.* (1964)

*Katzenbach v. McClung* (1964)

President Johnson’s remarks on the 1965 Immigration Act

President Johnson’s remarks on the 1965 Voting Rights Act

*South Carolina v. Katzenbach*(1966)

*Loving v. Virginia (1967)*

Lectures:

The 1964 Civil Rights Act

The 1965 Immigration Act

1965 Voting Rights Act

The most appropriately named Supreme Court case in history

\*\*\* Midterm II posted on Thursday \*\*\*

**Week 11: Policy Wars of the 1970s and 80s**

***November 3 and 5***

Readings:

*San Antonio Independent School District v. Rodriguez* (1973)

*Milliken v. Bradley* (1974)

[*Regents of the University of California*](https://en.wikipedia.org/wiki/Regents_of_the_University_of_California)*v. Bakke* (1978)

[*Santa Clara Pueblo v. Martinez*](https://en.wikipedia.org/wiki/Santa_Clara_Pueblo_v._Martinez) (1978)

*Plyler v. Doe* (1982)

Lectures:

The Promise of Brown

Affirmative Action

Rights for Native Americans

Undocumented Immigration

**Week 12: Contemporary Controversies**

***November 10 and 12***

\*\*\* Take-Home Midterm II due at 10 pm Tuesday \*\*\*

Readings:

*Parents Involved in Community Schools v. Seattle School District* (2007)

*Arizona vs. U.S* (2012)

*Shelby County v. Holder* (2013)

*Fisher v. University of Texas at Austin* (2016)

Lectures:

“The basis of race” and Affirmative Action

Immigration Enforcement

The VRA

**Week 13: The Trump Administration and Conclusions**

***November 17 and 19***

Readings:

*Trump v. Hawaii* (2018)

*Department of Homeland Security v. Thuraissigiam* (2020)

*McGirt v. Oaklahoma* (2020)

*Lecture:*

The Trump administration

Concluding thoughts

\*\*\* Take-Home Final Due Thursday, December 3 @ 1pm \*\*\*

**Grade Scale**

A 94-100%

1. 90-93%

B+ 87-89%

B 83-86%

1. 80-82%

C+ 76-79%

C 73-75%

1. 70-72%

D+ 66-69%

D 63-65%

1. 60-62%

F > 60%