You can’t separate peace from freedom because no one can be at peace unless he has freedom.

- Malcolm X (1925-1965)

Freedom is not something that one people can bestow on another as a gift. They claim it as their own and none can keep it from them.

- Kwame Nkrumah (1900-1972)

People crushed by law have no hopes but from power. If laws are their enemies, they will be enemies to laws; and those, who have much to hope and nothing to lose, will always be dangerous, more or less.

- Edmund Burke (1729-1797)

Freedom and liberty, theoretical foundations of United States law, remain abstract principles, oftentimes at the fingertips of its citizens. Some may view freedom as the absence of slavery or imprisonment. Others may see freedom as the release from arbitrary or despotic control. While others might describe it as the state of being able to act without hindrance or restraint. Oliver Wendell Holmes saw freedom as, “the right of strict social discrimination of all things, and persons and it is one of the most precious privileges.” Lord John Acton connected freedom and liberty and wrote, “By liberty I mean assurance that every man shall be protected in doing what he believes to be his duty against the influence of authority and majorities, custom and opinion.”

The concepts of freedom and liberty have been debated for centuries. In this course, we hope to continue those debates and insert contemporary issues into the discussion. Using various themes, we will address the intersection between Law and Freedom and draw lines connecting those visionary concepts.

While this course uses case law as its predominant source, we do not solely want to think of these issues in terms of U.S. Supreme Court doctrine. Instead, we hope to analyze the cases and other readings and determine if the law remains poised to capture the images that liberty and freedom entail.
REQUIREMENTS AND GRADING

(1) Quizzes – 25%
Five in-class quizzes each worth 5%. There will be NO make-up quizzes.

(2) Attendance and participation – 25%
There is no substitute for attending class. If you need to miss class, inform me in advance or shortly thereafter. Attending class, taking copious notes, and keeping up with the reading and assignments is imperative. There are no short cuts, so do the work. Class discussions will be the cornerstone of this course. If you are not prepared to speak, get prepared. If you are shy, this will be the time to become more vocal. If you are talkative, this may be the time to listen and learn from others as well. **NOTE: If it appears that the class is not keeping up with the assigned reading, additional pop-quizzes will be administered and factored into the participation grade.**

(3) Research paper – 50%
Consists of a 10-15 page paper. The paper can be written on the topic of your choice in connection with the course. Your paper topic will be addressed throughout the semester during both class and office hours. In an attempt to avoid writing the paper in the last days of the semester and producing inadequate work, periodic assignments concerning the research paper will be due in intervals.
Title and question(s) presented- 5%
Annotated bibliography – 5%
Introduction and paper skeleton- 5%
Final paper – 35%

COURSE SCHEDULE

**NOTE: Reading assignments are to be completed BY that class. All reading is subject to change. Awareness of any changes is the responsibility of the student. All readings can be found in the course packet, book, or online, except where listed, in which case I will distribute the appropriate reading(s).**

January 26: Introduction
Read syllabus – Reading Packet available at Campus Design and Copy. *The Unwanted Gaze* is available at Food for Thought Books, 106 N. Pleasant St., Amherst.

January 31: The Role of Law
PART 1: THE ROLE OF LAW

**The Role of Law:** This section is designed as an inaugural understructure for the course. Here we ask if freedom is abridged by silent and gradual encroachments or violent and sudden usurpations or not at all. One might turn to the story of a frog: if you throw a frog into boiling water, it will immediately jump free. However, if you immerse a content frog in water at a normal temperature, and gradually increase the temperature, then you can boil him alive without restraint. This section is important because it will be used as the class progresses to discuss deeper issues within the realm of law.
James Kent: 40-42

February 2: The Role of Law
Elizabeth Mensch: 23-52
Film – *The Man Who Shot Liberty Valance* (Part I)

February 7: The Role of Law
Howard Zinn: 412-419
Susan Tiefenbrun: 677-701 (available online)
Film – *The Man Who Shot Liberty Valance* (Part II)
February 14: The Right of Privacy - QUIZ #1
PART 2: THE RIGHT OF PRIVACY
The Right of Privacy: The Right of Privacy is not specifically provided for in the U.S. Constitution or the Bill of Rights. Yet, it remains a notion set forth in various Supreme Court opinions and is controlling law today. In this section, we ask where privacy reaches and debate the application of the Right of Privacy in various contexts.
Samuel Warren and Louis D. Brandeis: 193-218 (available online)

February 16: The Right of Privacy
Jeffrey Rosen: 3-26


February 21:
Holiday

February 23: The Right of Privacy
Griswold v. Connecticut (1965) 381 U.S. 479
Lawrence et al. v. Texas (2003) 02-102
Jeffrey Rosen: 26-53

February 28: Obscenity, Pornography, and Offensive Speech
PART 3: OBSCENITY, PORNOGRAPHY, AND OFFENSIVE SPEECH
Obscenity, Pornography, and Offensive Speech: The problem of defining what is obscene is establishing a public consensus. This section does not have the bold aspiration that it will create public consensus. Instead, we hope to view these issues of speech from a socio-legal standpoint and help understand why the law approaches speech the way that it does.

March 2: Obscenity, Pornography, and Offensive Speech – QUIZ #2
Cohen v. California (1971) 403 U.S. 1

March 7: Obscenity, Pornography, and Offensive Speech

March 9: Race – TITLE AND QUESTION(S) PRESENTED DUE
PART 4: RACE
Race: Race, specifically in contemporary times, is understood in terms of “color-blind constitutionalism.” In this section, we intend to view the effects of that approach and analyze its impact. Race remains the most widely discussed issue in societal discourse and thus, an important legal theme.
Scott v. Negro London (1806) 7 U.S. 324
State v. Mann (1829) 13 N.C. 263 (available online)
The Amistad (1841) 40 U.S. 518

March 14:
Spring Break

March 16:
Spring Break

March 21: Race
Dred Scott v. Sandford (1857) 60 U.S. 393
Plessy v. Ferguson (1896) 163 U.S. 537
Derrick Bell: 239-258

March 23: Race
Washington v. Davis (1979) 426 U.S. 229
Rogers M. Smith: 709-733 (online)

**March 28:** Freedom from and of Religion – QUIZ #3
PART 5: FREEDOM FROM AND OF RELIGION

**Freedom from and of Religion:** Religious freedom is guaranteed in the First Amendment. Yet, religious freedom has never been absolute in terms of the law. In this section, we look at the disputes surrounding law and religion with particular attention given to cases involving the pledge of allegiance and religion in public schools.

Thomas Jefferson: to be distributed

*Cantwell v. Connecticut* (1940) 310 U.S. 296

**March 30:** Freedom from and of Religion

*West Virginia State Board of Education v. Barnette* (1943) 319 U.S. 624

**April 4:** Freedom from and of Religion – ANNOTATED BIBLIOGRAPHY DUE


*Newdow v. U.S. Congress* (2002) 9th Cir. 00-16423 (available online)

**April 6:** The War on Drugs
PART 6: THE WAR ON DRUGS

**The War on Drugs:** The War on Drugs is a political doctrine that remains connected to the law. Various aspects of the issue concerning drugs and their legalization hinge on the strength or weakness of the law. This section looks at the history of the War on Drugs and the effect that the Court has had on the subject.

James P. Gray: 95-122

**April 11:** The War on Drugs

Erika L. Johnson: 629-664 (available online)


**April 13:** The War on Drugs – QUIZ #4

Kathleen R. Sandy: 665-693 (available online)

*U.S. v. Oakland Cannabis Buyers Cooperative* (2001) 00-151

**April 18:** Holiday

**April 20:** The Right to Counsel and Procedural Safeguards
PART 7: THE RIGHT TO COUNSEL AND PROCEDURAL SAFEGUARDS

**The Right to Counsel and Procedural Safeguards:** The Sixth Amendment guarantees the accused “the assistance of counsel for his defense.” This section is designed to view that safeguard’s effectiveness. Anecdotal instances of constitutional violations are not enough to negate the goal of the rule of law. Here, we hope to go beyond mere case law and delve into historical foundations concerning the right to counsel.

Howard Zinn: 433-443

*Powell v. Alabama* (1932) 287 U.S. 45
*Gideon v. Wainwright* (1963) 372 U.S. 335

**April 21:** The Right to Counsel and Procedural Safeguards – INTRODUCTION AND PAPER SKELETON DUE


**April 25:** The Right to Counsel and Procedural Safeguards

*Burch v. Louisiana* (1979) 441 U.S. 130
*Murray v. Giarratano* (1989) 492 U.S. 1

**April 27:** The Fourth Amendment
PART 8: THE FOURTH AMENDMENT

**The Fourth Amendment:** The Fourth Amendment guarantees individuals the freedom from unreasonable searches and seizures. A central topic to any discussion surrounding criminal
procedure, the Fourth Amendment and case law concerning it are replete with exceptions. We will address those exceptions and their constitutional consistency.

Jeffrey Rosen: 54-90

U.S. v. Robinson (1973) 414 U.S. 218

May 2: The Fourth Amendment

Delaware v. Prouse (1979) 440 U.S. 648

May 4: The Fourth Amendment – QUIZ #5

U.S. v. Martinez-Fuerte (1976) 428 U.S. 543 (available online)
Michigan Dept. of State Police v. Sitz (1990) 496 U.S. 444 (available online)

May 9: The Fourth Amendment

City of Indianapolis v. Edmond (2000) 99-1030 (available online)
Illinois v. Lidster (2004) 02-1060 (available online)

May 11: Review

Review

May 14-20: Final Examination Period

FINAL ASSIGNMENT DUE ON TUESDAY MAY 17 AT 2:00 IN GORDON HALL 115