

# HIST 342: Civil Rights Revolution and the Law



Robert Curvin in Newark from [nj.com](http://nj.com)

Professor Alison Lefkowitz  
Email: [alison.lefkowitz@njit.edu](mailto:alison.lefkowitz@njit.edu)  
Class Time: TR 10:00-11:20  
Class Location: CULM 110  
Office Hours: T 1:30-2:30; R 12:30-2:30 and by appointment  
Office Hours Location: CULM 327

This course will examine what historians have been identifying as the civil rights revolution—the moment in the twentieth century when many different communities began pursuing formal rights through the court system. We will begin by examining African Americans’ campaign to gain civil rights through the courts and how political action supported and sometimes even exceeded this process. We will then examine how African Americans’ success inspired or shored up the claims of other groups—including women, Chicanos, Asian Americans, Native Americans, LGBTQ people, disabled people, and others—to pursue their rights in courts as well. We will also consider the

limits to the rights revolution—what it was not possible to gain through the courts or how opposition to the revolution thwarted these goals.

### Code of Conduct:

-- I will be as understanding as I can be along the way with the sole exception of academic dishonesty (see below). If you have any trouble, confusion, or worry, please reach out. We can figure something out.

--Though we might disagree on many different issues, I expect you to treat the class, your fellow students, and me with respect at all times.

--Class Recordings: Class sessions may be recorded by the instructor. These recordings shall only be used as an educational resource and are not to be distributed or used outside of this class. Information on how to access recorded lectures will be made available by your instructor. Any recordings that contain identifiable information about students will not be used beyond this semester. Class Recording Etiquette: Students are expected to respect their fellow students' privacy and freedom to learn without disruption. Students are not allowed to capture or reproduce anyone's name, image, or voice without permission. They must be polite and respectful in the online chat. Informal chat is okay, but typing is restricted to things that one would say out loud in front of the entire class. Students must always conduct themselves on their webcam video as they would in person in a classroom.

-- *Academic Integrity is the cornerstone of higher education and is central to the ideals of this course and the university. Cheating is strictly prohibited and devalues the degree that you are working on. As a member of the NJIT community, it is your responsibility to protect your educational investment by knowing and following the academic code of integrity policy that is found at:*

<http://www5.njit.edu/policies/sites/policies/files/academic-integrity-code.pdf>.

*Please note that it is my professional obligation and responsibility to report any academic misconduct to the Dean of Students Office. **Any student found in violation of the code by cheating, plagiarizing or using any online software inappropriately will result in disciplinary action. This may include a failing grade of F, and/or suspension or dismissal from the university.** If you have any questions about the code of Academic Integrity, please contact the Dean of Students Office at [dos@njit.edu](mailto:dos@njit.edu)*

-- My addenda: please note self-plagiarism counts as plagiarism. You can use the same research but not the same language for more than one paper. You also may not use ChatGPT or other AI unless \*approved ahead of time by me.\*

--If you need support for any reason, please make use of our C-CAPS Staff at 973-596-3414.

### Learning Outcomes:

Learning Outcomes
a) identify and describe the changes and continuities in the American legal system related to the civil rights revolution.
b) assess interpretive approaches and biases in secondary sources.
c) make arguments using legal documents as primary sources.
d) relate historical changes to present day legal issues.
e) demonstrate written and oral communication skills.

f) Demonstrate information literacy consistent with being an upper-level undergraduate: including (1) locating, retrieving, and evaluating information relevant to the writing of a college-level argumentative essay; (2) organizing, synthesizing and communicating that information in clear, persuasive prose; and (3) producing a finished research paper that employs principles consistent with the ethical and legal uses of information.

The following assignments will gauge students' success with these learning outcomes. The following scale will be used: A 90-100; B+ 87-89; B 80-86; C+ 77-79; C 70-76; D 60-69; F below 60:

- 1) Attendance, participation and careful reading of the assigned texts. This class will mix lecture and discussion. You will be expected to participate in discussion. You will also need to actively participate to get points in this category. (50 points)
- 2) 2-3 page short paper. Write an essay that compares how Hall and Tushnet have understood the origins of the civil rights revolution. You should make an argument about how the two authors identified different origins *and why* or how they identified similar origins *and why*. Please feel especially free to visit me during office hours or email me for help. (150 points) **DUE FEBRUARY 6**
- 3) A midterm. The exam will have identifications and short answer questions based on the themes and readings in the first half of the course. The midterm will be on **MARCH 13** (200 points)
- 4) Forum posts. These should QUOTE at least two of that week's assigned readings. Responses that quote two documents and are posted before class will get full credit. (200 points)
- 5) Case presentation. In pairs you will sign up to present the court case assigned that day to the rest of the class. You'll present the major question, the ruling of the court, the reasoning the court used, any subsequent developments, and how this case relates to other cases we have read in class so far. Please use a powerpoint with at least these slides, though you may use more slides. (100 points).
- 6) 8-9 page final paper. You will have two options for the final paper. 1) The first option is to choose one of the primary sources I give you and to put the source in its historical context using secondary sources from the course and outside research. Successful papers will use the primary source to make a compelling argument about how the civil rights movement helped shape American law and life or vice versa. 2) The second option is to write a historical brief on a recent US Supreme Court Case that you will select from several options I provide you. Your aim is to use historical research to support one side of the case. For example, you might show that the "tradition" a law was based on has no historical basis or that the circumstances that justified that law have changed over time. We will examine sample cases in class that were influenced by historical reasoning in order to get a sense of what this should look like. **FOR BOTH OPTIONS**, you should include at least 2 sources assigned in class and at least 2 outside sources. **FINAL PAPER DUE MAY 12** (250 points) You will first turn in a 1-2 page proposal stating which source you chose and what history it will reflect OR which

case, which side, what sources, and what historical vantage point you will be using. **PROPOSAL DUE APRIL 15** (50 points).

**Readings:**

Readings will be available on **Canvas**.

**1. Introduction**

Tuesday, January 21

Introduction

Thursday, January 23

--Jacquelyn Dowd Hall, "The Long Civil Rights Movement and the Political Uses of the Past," *The Journal of American History* 91 (March 2005), 1233-1263.

**2. The First Civil Rights Movement**

Tuesday, January 28

--Mark Tushnet, "The Rights Revolution in the Twentieth Century" in Michael Grossberg and Christopher Tomlins, eds., *The Cambridge History of Law in America*, Volume 3 (Cambridge University Press, 2008).

-- *US v. Stanley* (1883)

Thursday, January 30

--*Plessy v. Ferguson* (1896)

Friday, January 31

--MLK Day of Service on campus. Volunteers can skip 3 forum posts of their choosing or receive 5 percentage points of extra credit on the midterm.

Post: What were the contradictions in the legal reasoning for defeating the first civil rights revolution?

**3. The Run-Up to Brown v. Board**

Tuesday, February 4

--Risa Goluboff, "'We Live's in a Free House Such as It Is': Class and the Creation of Modern Civil Rights," *University of Pennsylvania Law Review*, 151 (2003).

Thursday, February 6

--*United States v. Carolene Products* (1938), footnote 4

--*Koremastu v. United States* (1944)

SHORT PAPER DUE

**4. Early Civil Rights Victories**

Tuesday, February 11

--*Shelley v. Kraemer* (1948)

--James Baldwin, "Notes of a Native Son" (1955)

Thursday, February 13

--Mary L. Dudziak, "Brown as a Civil War Case," *The Journal of American History* (June 2004), 32-42.

--*Brown v. Board of Education* (1954)

Post: Why did early wins in civil rights law arrive via housing and education?

**5. The Civil Rights Movement**

Tuesday, February 18

--Danielle McGuire, "'It Was like All of Us Had Been Raped': Sexual Violence, Community Organization, and the African American Freedom Struggle," *Journal of American History* (December 2004): 906-931.

Thursday, February 20

--*Loving v. Virginia* (1967)

--"Appendix D: Mississippi Summer Project Running Summary of Incidents"

Post: Did the law reflect political change or help cause it?

## **6. The Civil Rights Movement Evolves**

Tuesday, February 25

--*Griggs v. Duke Power Co.* (1971)

--Stokely Carmichael, "Black Power" excerpts (1966)

Thursday, February 27

--*The Black Panther*, Volume II, No. 5, September 7, 1968

Post: What issue most inspired activists in the civil rights movement?

## **7. Roadblocks to Equality**

Tuesday, March 4

--*Milliken v. Bradley* (1974)

--Excerpts from the Kerner Report

--Keeanga-Yamahtta Taylor, "How Real Estate Segregated America," *Dissent* 65 (Fall 2018), 23-32.

Thursday, March 6

--Ta-Nehisi Coates, "The Case for Reparations," *The Atlantic*, June 2014

--In-class screening of sections of *Hoop Dreams*

Post: Why was it so difficult to resolve civil rights issues by the 1970s?

## **8. The Women's Rights Movement**

Tuesday, March 11

--Serena Mayeri, "Pauli Murray and the Twentieth Century Quest for Legal and Social Equality," *Indiana Journal of Law and Social Equality* 80 (2014), 80-90.

--*Reed v. Reed* (1971)

--Johnnie Tillmon, "Welfare is a Women's Issue"

Thursday, March 13

MIDTERM

SPRING BREAK

## **9. The Chicano and Puerto Rican Rights Movements**

Tuesday, March 25

--*Hernandez v. Texas* (1954)

--Interview with Jose "Cha Cha" Jimenez, "The Young Lords, Puerto Rican Liberation, and the Black Freedom Struggle," *OAH Magazine of History* (Vol 26), 61-64.

Thursday, March 27

-- Edward Escobar, "The Dialectics of Repression: The Los Angeles Police Department and the Chicano Movement, 1968-71," *Journal of American History* 79 (March 1993): 1483-1514.

Post: Were the fights for Mexican American and Puerto Rican rights similar or different from each other? How?

## **10. Asian American Rights and the Model Minority Myth**

Tuesday, April 1

--Madeline Y. Hsu and Ellen D. Wu, "'Smoke and Mirrors': Conditional Inclusion, Model Minorities, and the Pre-1965 Dismantling of Asian Exclusion," *The Journal of American Ethnic History* (Summer 2015), 43-65.

--*Lau v. Nichols* (1974)

Post: What were the long-term effects of the model minority myth?

Thursday, April 3

--Wellness Day

## **11. The American Indian Movement**

Tuesday, April 8

--*Williams v. Lee*, 358 U.S. 217 (1959)

Thursday, April 10

--An excerpt from an interview with Earl Livermore about the Indians of All Tribes (IOAT) occupation of Alcatraz, 1970

Post: How did the issue of land affect the goals of the American Indian Movement?

## **12. Gay Liberation**

Tuesday, April 15

--"Rapping with a Street Transvestite Revolutionary: An Interview with Marcia Johnson," *Out of the Closets: Voices of Gay Liberation* (New York: New York University Press: 1992).

--*Bowers v. Hardwick* (1986)

PROPOSAL DUE

Thursday, April 17

--Marc Stein, "*Boutilier* and the U.S. Supreme Court's Sexual Revolution," *Law and History Review* (Fall 2005), 491-536.

## **13. Disability Rights**

Tuesday, April 22

--*PARC v. Pennsylvania* (1971)

Thursday, April 24

--Karen Tani, "Disability Benefits as Poverty Law: Revisiting the 'Disabled State,'" *University of Pennsylvania Law Review* 170 (2022), 1687-1719.

--Edward V. Roberts, "When Others Speak for You, You Lose," January 1983

Post: How can we use the concept of the curb cut to understand the other civil rights movements?

## **14. Environmental Justice**

Tuesday, April 29

--*Bean v. Southwestern Waste Management Corp.* (1979)

Thursday, May 1

-- Josiah Rector, "Environmental Justice at Work: The UAW, the War on Cancer, and the Right to Equal Protection from Toxic Hazards in Postwar America," *Journal of American History* 101 (2014): 480-502.

Post: How did environmental activists' strategies differ from other civil rights activists?

### **15. Thinking about the Future**

Tuesday, May 6

--*Bostock v. Clayton County* (2020)

--Michelle Alexander, "The War on Crime and the New Jim Crow," *Race, Poverty & the Environment* (April 2010), 75-77.

**FINAL PAPER DUE: May 12**