

HIST 342: Civil Rights Revolution and the Law



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Professor Alison Lefkowitz
Email: alison.lefkowitz@njit.edu
Class Time: TR 2:30-4
Class Location: CULM LECT 3
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*

--ChatGPT and other AI should only be used as approved by the instructor.

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

Learning Outcomes:

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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 SEPTEMBER 21
- 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 (200 points) OCTOBER 26
- 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 propose a memorial or monument that reflects some aspect of the history of the civil rights movement. Proposals should consider the location, the design of the memorial, the imagery the memorial uses, and the narrative that the memorial presents. It should also survey other memorials, museums, or historical markers in the area and how your memorial would add to, enhance, or contradict the present landscape. Above all, it should connect the specific history you have learned in class to the justification for the monument. The monument should add a specific lesson from history to the current memorial landscape. We will look at specific memorials on November 9 to get a sense of what this can look like. 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. (250 points) You will first turn in a 1-2 page proposal stating what kind of memorial, which place, what sources, and what history it will reflect OR which case, which side, what sources, and what historical vantage point you will be using. (50 points). DUE DECEMBER 17

Readings:

Readings will be available on **Canvas**.

1. Introduction

Tue, Sep 5

Introduction

Thu, Sep 7

--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

Tue, Sep 12

--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)

Thu, Sep 14

--*Plessy v. Ferguson* (1896)

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

3. The Run-Up to Brown v. Board

Tue, Sep 19

--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).

Thu, Sep 21

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

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

SHORT PAPER DUE

4. Early Civil Rights Victories

Tue, Sep 26

--*Shelley v. Kraemer* (1948)

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

Thu, Sep 28

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

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

5. The Civil Rights Movement

Tue, Oct 3

--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.

Thu, Oct 5

--*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

Tue, Oct 10

--Kenneth W. Mack, "Civil Disobedience, State Action, and Lawmaking Outside the Courts: Robert Bell's Encounter with American Law," *Journal of Supreme Court History* 39 (November 2014), 347-371.

Thu, Oct 12

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

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

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

7. Race in the North

Tue, Oct 17

--Excerpts from the Kerner Report

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

Thu, Oct 19

--*Milliken v. Bradley* (1974)

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

Post: Why was it so difficult to resolve civil rights issues in the north?

8. The Women's Rights Movement

Tue, Oct 24

--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)

Thu, Oct 26

MIDTERM

9. The Chicano, Asian, and Puerto Rican Rights Movements

Tue, Oct 31

--*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.

Thu, Nov 2

--*Lau v. Nichols* (1974)

--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, Puerto Rican, and Asian American rights similar or different from each other? How?

10. The American Indian Movement

Tue, Nov 7

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

--Matthew L.M. Fletcher, "2010 Dillon Lecture: Rebooting Indian Law in the Supreme Court," *South Dakota Law Review* 55 (2010), 510-562.

Thu, Nov 9

--Newark walking lab (we will meet in the classroom and walk to the new Harriet Tubman memorial for context and inspiration for your final papers)

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

11. Gay Liberation

Tue, Nov 14

--"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)

Thu, Nov 16

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

Post: Has the gay rights movement followed the same trajectory as the other movements we have studied in class? Why or why not?

12. Disability Rights

Tue, Nov 21

--*PARC v. Pennsylvania* (1971)

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

Thu, Nov 23

No Class—Thanksgiving!

13. Environmental Justice

Tue, Nov 28

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

Thu, Nov 30

-- 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?

14. Contemporary Achievements and Limitations

Tue, Dec 5

-- *Haaland v. Brackeen* (2023)

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

Thu, Dec 7

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

Post: What should we expect in the future for the civil rights revolution?

15. Thinking about the Future

Tue, Dec 12

--Rabia Belt, "Contemporary Voting Rights Controversies Through the Lens of Disability," *Stanford Law Review* 68 (June 2016), 1491-1550.

DECEMBER 17

FINAL PAPER DUE