

NEW YORK UNIVERSITY
GALLATIN SCHOOL OF *Individualized* STUDY

K 20.1144 SOC
FREE SPEECH, MEDIA, LAW & DEMOCRACY
SPRING 2008

ROOM: Silver 405 Wednesdays 7:45-10:15pm

DR. PETER RAJSINGH
pr9@nyu.edu

COURSE DESCRIPTION

This course explores the relationship between free speech and democracy in the liberal political tradition and the countervailing impulse towards censorship and social control. We will discuss constitutional dialogues to try to understand evolution of free speech and press doctrine in the American democratic experiment. We will also examine the way freedom of speech relates to being a political subject in a democratic body politic, and the manner in which various media shape political discourse. We will spend time discussing important Supreme Court cases that lay out the contours of constitutionally permissible incursions on civil liberty.

COURSE REQUIREMENTS

Preparing cases and readings in advance along with regular attendance and active class participation are essential. There will be a final examination, short in-class quizzes, three brief writing assignments (topics will be distributed) and a research opinion (approximately 8-10 pages). All of the foregoing will count towards the final grade.

1. ATTENDANCE

There are 14 sessions for this course. Attendance will be taken and unexcused absences noted.

2. GRADING

Your brief writing assignments, and term paper will be primarily evaluated by how well you integrate the course concepts into your written analysis.

3. HOMEWORK: 3 Written Study Question Analyses (2 to 4 pages typed)

Each student is responsible for handing in a total of 3 written homework assignments, with each of the three questions chosen from a different class session. You may submit more than 3 written homework assignments but only the top 3 grades will count.

4. TERM PAPER DESCRIPTION: (1 page typed)

A one-page description of your term paper project.

5. TERM PAPER PROJECT: (8 – 10 pages typed & double-spaced)

Students are responsible for a term paper. The purpose of this paper is to allow students to apply course concepts to an actual, specific situation.

6. GRADE WEIGHTS

1. Class Participation	20%
2. Homework	40%
3. Term Paper Project	40%

7. HONOR CODE

Students are reminded that they must adhere to the MBA Honor Code and report any suspected violation of the code that he or she has observed.

8. LAPTOP POLICY

Students are permitted to use laptops to take notes and for other relevant class activities. However, persistent surfing the web or checking email during class resulting in students not being engaged during class discussions will be noted and may penalize grades.

READING LIST:

Please note readings will be announced rather than being apportioned to specific meeting dates. Some of the readings will be distributed and students will be required to source others from legal websites. Useful URLs: law.cornell.edu; findlaw.com; fedworld.gov/supcourt/index.htm; law.upenn.edu/conlaw; <http://www.galaxy.com/b/d?n=47708> Further supplementary readings may be added.

Pericles Funeral Oration from Thucydides History of the Peloponnesian War (The Athenian Democratic Ethos, Speech in times of War)

John Milton Areopagitica 1644 (Justification for Free Press)

John Stuart Mill On Liberty (Utilitarianism, the Harm Principle vs Deontology)

John Locke "Letter Concerning Toleration"

Anton Chekhov "Gooseberries" (Truth, Authenticity and Self-Censorship)

Plato, The Republic (Cornford ed.)

Catherine A. MacKinnon Only Words (Excerpts) (Censorship of Pornography)

John Dewey The Public and its Problems (Excerpts)

Walter Lippmann Public Opinion

George Lakoff Don't Think of an Elephant (Rhetoric and public political discourse)

The Sedition Act (1789), Espionage Act (1917),

USA Patriot Improvement and Reauthorization Act (2006)

Primary Constitutional Cases:

Schenck v. U.S. (1919) Holmes' clear and present danger test

Whitney v. California (1927) Brandeis' imminent danger standard; civic courage

Hague v. CIO (1937) speech plus; public forum

Chaplinsky v. New Hampshire (1942) Fighting words

Valentine v. Chrestensen (1942) Commercial speech

NAACP v. Alabama (1958) Freedom of association

Brandenburg v. Ohio (1969)

U.S. v. O'Brien (1968) Symbolic speech Brandenburg v. Ohio (1969) Advocacy irrespective of imminent danger vs actual unlawful action

Cohen v. California (1971) Alleged offensive conduct

Spence v. Washington (1974) The Spence Test

Village of Skokie v. Nazi Party (1978) Fighting words vs symbolic speech

Wooley v. Maynard (1977) Right not to have state use private property as a public forum

Prune Yard Shopping Center v. Robins (1980) Private property/public forum and non-association vs free speech cf. Taking/Eminent Domain

Texas v. Johnson (1989) Flag burning /symbolic speech
Robert A. Viktora (R.A.V.) v. City of St. Paul (1992) Hate crime.
Madsen v. Women's Health Center (1995) Abortion protesters
Reno v. ACLU (1997) Communications Decency Act
Rumsfeld v. Forum for Academic & Institutional Rights (2006)

Freedom of Press:

Near v. Minnesota (1931) Prior restraint
New York Times v. Sullivan (1964) Actual malice standard for public figures
New York Times v. U.S. (1971) National security
Nebraska Press Assoc. v. Stuart (1976) Free press vs fair trial
Richmond Newspapers Inc. v. Stuart (1980) Press trial access
Hustler Magazine v. Fallwell (1988) Parody article
CNN v. Noriega (1990)* Rehnquist Ct. upheld restraining order against broadcasting tapes of Noriega conversations; lawyer client privilege

Pornography/Obscenity:

Miller v. California (1973) Miller Test, community standard
Paris Adult Theater I v. Slaton (1973)
New York v. Ferber (1982) Child pornography
City of Renton v. Playtime Theaters Inc. (1986) Zoning regulations
U.S. v. Playboy Enterprises (2000) Telecommunications Act 1996
City of Erie v. Pap's A.M. tdba Kandyland (2000) Suppression of free expression
Ashcroft v. Free Speech Coalition (2002) Child Pornography Protection Act

LIST OF SESSIONS

SESSION ONE:	Wednesday January 23
SESSION TWO:	Wednesday January 30
SESSION THREE:	Wednesday February 6
SESSION FOUR:	Wednesday February 13
SESSION FIVE:	Wednesday February 20

SESSION SIX:	Wednesday February 27
SESSION SEVEN:	Wednesday March 5
SESSION EIGHT:	Wednesday March 12
SPRING BREAK:	Wednesday March 19
SESSION NINE:	Wednesday March 26
SESSION TEN:	Wednesday April 2
SESSION ELEVEN:	Wednesday April 9
<i>***NOTE: TERM PAPER DUE TODAY</i>	
SESSION TWELVE:	Wednesday April 16
SESSION THIRTEEN:	Wednesday April 23
SESSION FOURTEEN:	Wednesday April 30
FINAL EXAM:	Wednesday May 7