

DEMOCRACY— A WORK IN PROGRESS

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COURSE OVERVIEW

Our four classes will examine how rights issues have been framed in the social movements and Supreme Court decisions that have shaped the experiences of African Americans, women, GLBT people, and immigrants.

- 1. The Call to Freedom:** Our first class will consider how the civil rights movement became the model for how people come together to articulate and defend their rights, in part because of how it succeeded in framing political and legal deliberations on human rights. To set up our discussions, we will discuss how the principle of judicial review shaped the historical role of the Supreme Court and how the concept of framing can help us understand the dynamics of social movements.
- 2. You Have to Work for It:** Our second class will contrast the rhetorical frames of Martin Luther King, Malcolm X, and Ella Barker to consider how civil rights leaders positioned themselves to engage differing audiences. For our case study of how civil rights movements have shaped Supreme Court deliberations, we will consider the historic impact of *Brown v Board of Education*, and then follow up to discuss the ways that impact was rolled back in the 1970s with public debates and judicial deliberations over “reverse discrimination.”
- 3. The Personal is Political:** The women’s rights movements and related Supreme Court decisions were shaped by questions about how to recognize women as equals while accommodating their differences. In the 1970s and 80s, women’s rights movements struggled to accommodate racial, class, and sexual-orientation differences. Those struggles were paralleled by the challenges the Supreme Court addressed on expanding access and accommodating differences.
- 4. Whose America/Who’s American?** We will conclude our discussions of how social movements and the Supreme Court have framed civil rights issues by considering questions about power—the power to define who is American and whose rights matter. We will examine how nativist frames have gained prominence in times of increased immigration, and we will also consider the legal and political impact of increased income inequality. Given these trends, what are the lessons to be learned in addressing contemporary challenges to civil rights?

When the architects of our great republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir.

Martin Luther King, Jr.,
[I Have a Dream](#), 8/28/63

For example, consider how these terms frame immigrants:

- Undocumented workers,
- Illegals, and
- Migrants.

Each term cues up a different story with its own emotional and political associations. We will attend to such differences to explore how social movements frame issues to mobilize participants, build coalitions, and enable collective action.

1st Class: The Call to Freedom

Our first class will set up our discussion of the work of democracy as an ongoing conversation about whose rights matter. We will provide a brief overview of how our understandings of our rights have been shaped by broader social movements, particularly the civil rights movement, women’s movements, and historical debates over immigration and national identity. These social movements have shaped Supreme Court deliberations over how we define and protect human rights.

In this and subsequent classes, we will shift back and forth between those deliberations and the social movements that have shaped them. We will consider how the framers established the Constitution to divide the powers of government and distance them from popular politics. Judicial reasonings were intended to serve as a check on legislative deliberations and executive powers. We will talk about how the Supreme Court works and what it does, and we will also introduce the rhetorical theories that we will use to bridge Supreme Court deliberations with broader social movements.

We will anchor our first class with an introductory overview of civil rights movements and two primary texts: Martin Luther King’s “Letter from a Birmingham Jail” (1963) and *Marbury v Madison* (1803), the original Supreme Court decision that established the principle of judicial review that was fundamental to the position of the Supreme Court.

Readings: (These readings will be provided in an online booklet. The links below are to the original online sources).

- Nicole M. Austin-Hillery, “Does the Civil Rights Model Still Work?” [Legal Change: Lessons from America’s Social Movements](#). Eds. Jennifer Weiss-Wolf and Jeanine Plant-Chirlin, 2015.
- [“The Framing Perspective on Social Movements.”](#) David A. Snow et al., *The Wiley Blackwell Companion to Social Movements* (2018)
- [“King’s Letter from Birmingham Jail, 50 Years Later,”](#) History Network (4/13/18) and Martin Luther King, Jr., [“Letter from a Birmingham Jail”](#) (16/4/63).
- [Commemorating the 200th Anniversary of Marbury and Madison](#), ABA, 2003 and [Marbury v Madison](#), 1803.

Recommended for Further Reading:

- Judy Brown, “On American Government” and [“The Supreme Court in the American System of Government”](#)

2nd Class: You Have to Work for It

We will consider the civil rights movement as a case study in how people have come together to claim and defend their rights. We generally think of the civil rights period as bounded by the *Brown v Education* decision in 1954 and the Voting Rights Act of 1965. If we consider civil rights activism not as an historical movement but as an obligation that arises when our rights are threatened, we can see the speeches and careers of civil rights leaders such as Martin Luther King, Malcolm X, and Ella Baker as lessons in leadership that can help us understand how groups come together to claim and defend their rights. Further such lessons can be learned by considering how landmark Supreme Court deliberations have shaped our country’s political history. As with our prior class, we will connect our discussions of political rhetoric and judicial deliberations by examining the frames that were used to define issues, consider alternatives, and propose solutions.

One issue we will examine is how we understand leadership. We traditionally identify the civil rights movement with its most influential spokesmen, but we will look past the speeches of Martin Luther King and Malcolm X to consider how Ella Baker provided a more collaborative and less hierarchical model of leadership. This model of leadership is vital to understanding how democracy works, not just in rights-based movements but also in our own communities.

To assess how civil rights activists came to exercise collective agency, we will review the Jim Crow legal restrictions that were imposed on African Americans and the collaborative leadership of progressive lawyers, most notably Thurgood Marshall, who as lead attorney for the plaintiffs argued that segregated schools had failed to provide African Americans with an equal education. The deliberations on *Brown* were pivotal, not only to overturning segregation but also to infusing civil rights activists with a renewed sense of their collective efficacy. Constitutional law evolves in a collaborative manner that continuously reinterprets shared assumptions against changing conditions in ways that are shaped by broader political movements and prevailing hierarchies.

Readings: (These readings will be made available in a booklet. The links below are to the original online sources).

- [Souter’s Harvard Commencement Address](#) (5/27/10); with 13th, 14th, and 15th Amendments to the Constitution
- [Brown v Board](#) of Education (1954) and [Washington v Davis](#) (1976)
- Aldon D. Morris, [“A Retrospective on the Civil Rights Movement: Political and Intellectual Landmarks”](#) (1999)
- Martin Luther King, Jr., [“I Have a Dream”](#) (1963); Malcolm X, [“Message to the Grassroots”](#) (1963); and Ella Baker, [“Bigger than a Hamburger”](#) (1960)

Recommended for Further Reading (and Viewing):

- [“When They See Us”](#) (2019 Netflix film on Black youth who were falsely charged in Central Park jogger assault)
- [“America’s Segregated Schools 65 Years after Brown,”](#) Erica Frankenberg et al., UCLA, 2019.
- David S. Meyer and Steven A. Boutcher, [“Signals and Spillover: Brown V. Board of Education and Other Social Movements.”](#) *Perspectives on Politics*, (2007).
- Richard Kluger, [Simple Justice: The History of Brown v. Board of Education and Black America’s Struggle for Equality](#) (1975, 2004)
- James McPherson, [Battle Cry of Freedom](#) (2003)



“The Photo That Shamed



March in support of Black Panthers, 1969. David Fenton

3rd Class: The Personal is Political

In our third class, we will consider how the women's movement worked to win equal rights while protecting differences. Women became a "protected" group under the Voting Act bill of 1964 and statutes such as Equal Employment Opportunity Commission provisions. Further efforts to secure equal rights for women were complicated by concerns about whether they would compromise workplace protections and deference to traditional roles. These concerns were a factor in judicial deliberations and in efforts of feminists to build coalitions that respected differences in the experiences of working class, minority, and lesbian women.

[The history of women's rights movements is often divided into waves](#), beginning with the first suffragists who secured women the right to vote in 1920, second-generation feminists who sought to gain equal rights in all legal and social matters in the 60s and 70s, and third-wave feminists who challenged the leadership of middle-class white feminists.

Our readings and class discussion will use Etta Baker as our bridge from the civil rights to women's liberation movements to build on our prior discussion of how women gained experience with building organizational networks and communicating with diverse audiences in the civil rights movement. Another bridging figure we will consider is Ruth Bader Ginsberg. In the political and judicial fields, women leaders such as Baker and Ginsberg recognized the values of collaborative problem-solving in addressing the challenges of claiming equal rights in ways that defend class, gender, and racial differences.

To continue our discussions of how human rights movements speak to current challenges, we will focus in on the feminist social movement's concern for "consciousness raising," which treated the "personal as political." This frame is useful to consider in reflecting upon how our sense of the political has evolved over the course of our lifetimes as we have come to recognize that racial and gender differences affect everyday life in ways that have political implications.

LGBT activists played an historic role in raising public awareness of the politics of gender in everyday life, and in the Supreme Court cases that extended basic rights to LGBT people.

Readings: (These readings will be made available in a course booklet. The links below are to the original online sources).

- ["Participatory Democracy: The Bridge from Civil Rights to Women's Liberation,"](#) *The Public Purpose*, 2013
- ["The Framing Perspective on Social Movements: Its Conceptual Roots and Architecture,"](#) David A. Snow et al., *The Wiley Blackwell Companion to Social Movements* (2018)
- ["The Second Feminist Wave,"](#) Martha W. Lear, *New York Times* (3/10/68)
- ["Sexual Politics,"](#) Kate Millett (1968)
- ["The U.S. Supreme Court Fulfills Its Promises on Same-Sex Marriage,"](#) Garrett Epps, *Atlantic* (6/26/15)
- ["Speaking in a Judicial Voice,"](#) Ruth Bader Ginsburg, *New York University Law Review* (12/92)

Recommended for Further Reading (and Viewing):

- [RBG](#), (2018) (Autobiography of Ruth Bader Ginsberg on Netflix)
- ["Morality Politics vs. Identity Politics: Framing Processes and Competition among Christian Right and Gay Social Movement Organizations,"](#) Melinda S. Miceli, *Sociological Forum* (12/05)
- ["How Social Movements Change \(Or Fail to Change\) the Constitution: The Case of the New Departure,"](#) Jack Balkin (2005)
- [Timeline of Major Supreme Court Decisions on Women's Rights](#), American Civil Liberties Union (2017)
- ["The Court Cases that Changed LGBTQ Rights,"](#) Chris Geidner, *New York Times* (6/19/19)



The Equal Rights Amendment

was first proposed in 1923, but it came closest to ratification after being passed by both houses in 1972. Thirty-five of the required thirty-eight states ratified the amendment, though five state legislatures voted to revoke their ratifications, in part because of the conservative movement led by [Phyllis Schlafly](#).

Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

4th Class: Who's American/ Whose America?

In our concluding class, we will consider the framing of debates over immigrant rights and the [Citizens United](#) decision that corporate funding in politics is a free speech right. As we will discuss, immigration debates have historically become more divisive when they have been framed in nativist terms, and the Citizen's United decision has been identified with conservative trends in Supreme Court deliberations, including recent decisions on cases involving visas from selected Muslim countries and voter suppression efforts. We will examine these trends from the perspective of contrasting philosophies of legal interpretation, particularly those that have developed in tandem with the social movements we have considered in our previous classes

Intersectionality has emerged as a powerful concept in the wake of social movement efforts to make sense of their differences, including the masculinist tendencies of the civil rights movement and the divisions that emerged in women's movements as they came to terms with differences in ethnicity and sexual orientation. We will follow through on discussions of these developments to consider how the framing of Deferred Action for Childhood Arrivals (DACA) as "Dreamers" has marginalized those immigrants who did not fit the mold, particularly queer undocumented youth.

Our other concluding cases will be the Black Lives Matter and #MeToo movements, which will provide us with opportunities to consider the contemporary relevance of the civil rights and women's movements, particularly the continuing presence of systemic racism and an awareness of the politics of everyday life. We will also consider how the collaborative leadership model we identified with Etta Baker takes on new significance in our networked environment.

Our concluding discussion of related Supreme Court decisions will be equally wide ranging. Our continuing concern will be with how judicial deliberations and social movements have developed in tandem in ways that make democracy a continuing work in progress.

Readings:

- ["What Nativist and Pro-Immigrant Movements Have in Common,"](#) Hana Brown and Jennifer Jones, *Mobilizing Ideas* (1/5/16)
- ["Americans Used to Support a Border Wall. What Changed Their Minds?"](#) Emily Ekins, *The Federalist* (1/14/19)



Why everyone is not equal before the law: special protections are provided to defend against prejudice based on gender, national origin, disability, race, ethnicity, disability, and age, as examined in [Exploring Constitutional Conflicts](#). Liberal critics of the Supreme Court have observed that [recent decisions have shown more concern for the rights of conservative Christians](#) than minorities facing system discrimination.

- ["How Queer Undocumented Youth Built the Immigrant Rights Movement,"](#) *Huffpost* (03/28/2013; 2/2/16)
- ["The women's revolt: Why now, and where to,"](#) Christina Pazzanese and Colleen Walsh, *Harvard Gazette* (12/21/17)
- ["Black Lives Matter" Constructing a New Civil Rights and Black Freedom Movement,"](#) Francis Shor, *New Politics* (2015)
- [A Broken Frame: Black Lives Matter,](#) Brandon Dixon, *Harvard Political Review* (5/22/16)

Recommended Readings:

- Hana Brown and Jennifer Jones, ["Immigrant Rights are Civil Rights,"](#) *Sociology for the Public* (2016)
- ["The Conservative Pipeline to the Supreme Court,"](#) Jeffrey Toobin, *The New Yorker* (4/10/17)