Course Description:

One of the major purposes of this course is to analyze how the U. S. Supreme Court has employed the Due Process and Equal Protection clauses to formulate public policy. Over the past forty years, the Court has been a key decision-making institution in the areas of civil liberties and civil rights. This is particularly the case regarding the rights of the accused, the rights of blacks, the rights of women, and the rights of the poor. Attention is also devoted to Native Americans and how the Supreme Court has construed the Constitution and statutes to shape and define their status in and relationship with America. Another facet of this course is an examination of the role of law in the American polity as an instrument of social and political change. We shall demonstrate the importance of law in the American political system and the role of the Supreme Court in the resolution of controversies in an array of issue areas.

This course also focuses on how and in what ways the Supreme Court competes with other decision-makers (i.e., the President, the Congress, the federal bureaucracy, lower federal courts, and state and local decision-makers). At bottom the decisions of the Court cannot be studied in a vacuum. The opinions of the Supreme Court are just one of the many "voices" heard in the policymaking arena. Court decisions become only one consideration, albeit a very important one, in determining policy and practice in any given issue area.

We should note that additional cases and readings will be assigned so that students might cover the most recent significant cases announced by the Supreme Court.

ADA Requirements:

Students with disabilities are encouraged to contact the instructor for a confidential discussion of their individual needs for academic accommodation. It is the policy of the University of Nebraska-Lincoln to provide flexible and individualized accommodation to students with documented disabilities that may affect their ability to fully participate in course activities or to meet course requirements. To receive accommodation services, students must be registered with the Services for students with Disabilities (SSD) office, 132 Canfield Administration, 472-3787 voice or TTY.

Learning Objectives:

A. To analyze the interplay of law and politics in the formulation of civil rights and liberties;

B. To examine the salience of the Supreme Court as a participant in the formulation of public policy;

C. To assess the capacity and limits of the Supreme Court to bring about social change;

D. To evaluate the ability of the Supreme Court to represent the under-represented in their policy aspirations;

E. To analyze the role of the Supreme Court in shift of power between the federal and state

F. To enhance the student=s skills in the evaluation and the development (making) of arguments;
G. To strengthen the student=s capacity to communicate orally and in writing.

H. To encourage students to evaluate how the constitutional and legal structures and values of America might facilitate other societies and their pursuit of fairness and equality.

**Organization:**
The course is organized so as to facilitate and encourage student participation. The case method approach will be used. Students will brief assigned cases, and those cases will be discussed during class. Scholars are reminded that this course is not a lecture course. Students are expected and encouraged to read and brief cases before class. Class discussions will assist students to apply the principles and values promoted by the Court in a global context.

**Course Requirements:**

1. Each student is expected to do the required readings as well as brief cases prior to the class meetings. The assigned readings and cases are discussed during the class. The Instructor may assign additional material over the course of the semester.

2. Each student is expected to participate in class discussions.

3. Each student is expected to attend all classes.

4. Each student is expected to do a three page typewritten bonus paper (15 points).

5. Each student is expected to take examinations at the designated times: Examination I, Thursday, February 28; Examination II, Thursday, April 4; Final Examination, TBA; Bonus Papers, Thursday, April 25. The bonus paper is not required. The final will be comprehensive, covering the entire course. Graduate students will, broadly, write a term paper that focuses on some elements of civil liberties and rights in 21\textsuperscript{st} century America. Please note the date for the first and second examinations might be changed based on the progress students are making toward understanding the materials.

6. Each examination consists of multiple choice and essay.

7. The grading scale is:
   
   \begin{align*}
   100-98 = & A+ \\
   97-93 = & A \\
   92-90 = & A- \\
   89-87 = & B+ \\
   86-81 = & B \\
   80-78 = & B- \\
   77-73 = & C+ \\
   72-67 = & C \\
   66-64 = & C- \\
   63-61 = & D+ \\
   60-56 = & D \\
   55-53 = & D-
   \end{align*}

8. Graduate students will be assigned additional readings.

9. Graduate students will be assigned 18 to 20 page paper.

10. The final grade will be computed as follows:
   a. Undergraduates:
   1) Discussion paper, 15 points
   2) First examination, 100pts
   3) Second Examination, 100pts
4) Final examination, 100pts

b. Graduate student
1) Discussion paper, 15 point
2) First examination, 100pts.
3) Paper (18-20 pages) 100pts
4) Final examination, 100pts

**Required Texts:**

Barker, Barker, Combs, Lyles and Perry, *Civil Liberties and the Constitution* (9th Edition).
Please note that the instructor may, also, assigned more recent cases that are not in the textbook on electronic reserve.

**Evaluation of All Written Work**

1. The Clarity of the writing.
2. The coherence of the argument(s).
3. The strength of the analysis.
4. The integration of appropriate readings, cases and/or research materials.

  **Topic Outline**

I. The Supreme Court: Civil Liberties in Political-Social Context
   A. The Supreme Court
   B. Congress, the President, and the Bureaucracy
   C. The Court's Agenda & Opinions
   D. Organization of Federal Court System
   E. Interest Groups and Civil Rights
   F. Implementation and Impact
   G. Judicial Selection
Readings:
Barker et al. Chs. 1 and 2
O’Brien (entire book)

II. The Rights of the Accused (Part IV)

A. The Exclusionary Rule and Other Fourth Amendment Controversies (Chapter 8)

1. *Mapp v. Ohio*
2. *United States v. Leon (online)*
3. *Florida v. Bostick (online)*
4. *City of Indianapolis v. Edmond*
5. *Hudson v. Michigan (online)*
6. *Virginia v. Moore*
7. *Arizona v. Gant*

C. Protection Against Compulsory Self-Incrimination and the Right to Counsel (Chapter 9)

1. *Gideon v. Wainwright*
2. *Strickland v. Washington*
3. *Miranda v. Arizona*
4. *New York v. Quarles*
5. *Illinois v. Perkins*
6. *Dickerson v. U.S (online)*
7. *Wiggins v. Smith (online)*
8. *Indiana v. Edwards (online)*
9. *Vermont v. Brillon*

D. Other Constitutional Guarantees in the Criminal Process: Trials, Sentencing, and Incarceration (Chapter 10)

Trial by Jury and Other Issue
1. *Batson v. Kentucky*
2. *Georgia v. McCollum (online)*
3. *Snyder v. Louisiana*
4. *Blakely v. Washington (online)*
5. *Kimbrough v. United States (online)*

The Death Penalty
1. *Gregg v. Georgia*
2. *McClesky v. Georgia*
3. *Stanford v. Kentucky/Wilkins v. Missouri (online)*
4. Payne v. Tennessee
5. Kennedy v. Louisiana
   Cruel and Unusual Punishment
1. Ewing v. California

   Bail and Preventive Detention
1. Kansas v. Hendricks (online)

   Confrontation, Cross Examination, Sentencing Guidelines and Prisoners’ Rights
1. Coy v. Iowa (online)
2. Giles v. California (online)

   Prisoners’ Rights
1. Wilson v. Seiter (online)
2. Hudson v. McMillian
3. Johnson v. California (online)

   Juvenile Rights
1. In re Gault
2. Roper v. Simmons (online)
3. Atkins v. Virginia (online)

III. Protecting Against Bias: Segregation and Discrimination (Part V)

A. The Development and Legal Demise of Racial Segregation (Chapter 11)
1. Dred Scott v. Sanford (online)
2. Civil rights Cases (online)
3. Plessy v. Ferguson
4. Brown v. board of Education I
5. Brown v. board of Education II

B. The Rocky Road of School Desegregation (Chapter 12)
   1. Cooper v. Aaron (online)
   2. Milliken v. Bradley (online)
   3. Board of Education of Oklahoma City Public School v. Dowell
   4. Parents Involved in Community Schools v. Seattle School District No. 1
   5. United States v. Fordice (online)
   6. Gratz v. Bollinger (online)

C. Voting and Political Representation (Chapter 14)
1. Gomillion v. Lightfoot
2. South Carolina v. Katzenbach
3. *City of Mobile v. Bolden* (online)
4. *Chisom v. Roemer* (online)
5. *Presley v. Etowah* (online)

Reapportionment and Related Problem
6. *Baker v. Carr*
7. *Shaw v. Reno*
8. *Ashcroft v. Georgia* (online)
10. *Bartlett v. Strickland* (online)
11. *Bush v. Gore* (online)
12. *Northwest Austin Municipal Utility District No. 1 v. Holder*

D. The Prevalence of Biases and the Affirmative Action Controversy  (Chapter 13)

2. *Regents of the University of California v. Bakke*
3. *City of Richmond v. Croson* (online)
4. *Adarand v. Pena* (online)
5. *Grutter v. Bollinger*
6. *CBOCS v. Humphries* (online)
7. *Ricci v. Destefano*

E. The Controversy Over Racially Segregated Housing
1. *Jones v. Mayers*
2. *Meyer v. Holley*

F. Native Americans-Race and Culture (Chapter15)
1. *Johnson v. McIntosh*
2. *Cherokee Nation v. Georgia* (online)
   Seven Periods of Broken Promises:  The Historical background for the 21st Century
4. *Morton v. Mancari* (online)
5. *United States v. Sioux Nation* (online)
7. *City of Sherrill v. Oneida Indian Nation of New York*
8. *Carcieri v. Salazar*
9. *Ex Parte Crow Dog* (online)
10. *United States v. Kagama* (online)

IV. Gender-Based Discrimination and Privacy in Varied Contexts

A. Equal Rights for Women and Gender-Based Discrimination (Chapter 16)
Sex Discrimination and the Evolution of Judicial Policies
1. *Bradwell v. Illinois*
2. *Muller v. Oregon* (online)
   Gender and Compelling Levels of Equal Protection
3. *Reed v. Reed* (online)
4. *Frontier v. Richardson*
5. *Craig v. Boren* (online)
6. *Rostker v. Goldberg*
   Parents, Gender, and Family
7. *Miller v. Albright*
8. *Rostker v. Goldberg*

Education and Single Sex Admissions
9. *Mississippi Univ. For Women v. Hogan* (online)
10. *Grove City College v. Bell* (online)
11. *United States v. Virginia*
   Women and Criminal Justice

B. Privacy, Equal Protection, Reproductive Freedom, Sexual Orientation and Other Contexts (Chapter 17)
Privacy as a Constitutional Right and Reproductive Freedom
1. *Griswold v. Connecticut*
2. *Roe v. Wade*
3. *Webster v. Reproductive Health Services* (online)
5. *Stenberg v. Carhart* (online)
6. *Gonzales v. Carhart* (online)

Sexual Orientation, Sexual Harassment
1. *Bowers v. Hardwick* (online)
2. *Romer v. Evans* (online)
4. *Boycotts of America v. Dale* (online in chapter 5)
5. *Lawrence v. Texas*

The Right to Die
1. *Cruzan v. Director, Missouri Dept. of Health* (online)
2. *Washington v. Gluckersberg*

Random Drug Testing
1. *Vernonia School district 47 J v. Acton* (online)
V. The Poor in Court: Expanding and Contracting Rights (18)

A. Structural Obstacles Facing the Poor (801)
   Welfare Benefits 802
   1. Shapiro v. Thompson
   2. Goldberg v. Kelly (online)
   3. Wyman v. James (online)
   4. Saena v. Roe (online)

B. Poverty, Public Schools, and the Property Tax