**US Culture and Society: Supreme Court Decisions That Shaped the Nation**

Landmark Suprem Court Decisions / Az USA Legfelsőbb Bíróságának transzformatív döntései

Történelmi-kulturális szakszeminárium – BBNAN13400 D3 Spring 2022 PPCU

*Instructor:* Beatrix Balogh

*Place and Time:* D 414, Thursday 12.30-14.00

*Type:* Seminar/Discussion, *Evaluation:* Seminar grade (gyakorlati jegy), see Assessment and Requirements

*Office hours:* Tuesday 16.00-17.00 Rm 102

**Purpose:** In this course, students will delve into pivotal cases from the **United States Supreme Court** that shaped law, liberty, and the interpretation of the U.S. Constitution. The course will explore key cases related to equality, **freedom of speech,**other **civil rights, due process, search and seizure**, and more. While honing on their argumentation skills, students will gain insights into the historical context, legal arguments, and implications of these influential rulings.

We will look into and debate current cases and will reopen and reenact old ones in courtroom simulations. We will discuss how cases come before the Supreme Court, how they are argued, and how the Court issues decisions and dissents; and most importantly, how these decisions occasionally fundamentally change how society operates. The course applies a thematic approach that combines skills development, understanding historical contexts, as well as the cultural patterns, prevailing social norms, as well as the politics of the decision. Investigating these contentious cases also help students gain insights into some of the most critical questions of US culture and society.

You are not entirely new to landmark Supreme Court decisions. You have encountered many of these in your Introduction to the US course focusing on the principle the Court established, the implications of the decision. You would recognize the case that established judicial review, ‘separate but equal’, right to counsel; you have heard of Miranda rights. Your US history survey course also reviewed some of these and the compulsory source documents included excerpts from court opinions.

But do you know what the original suit was about? Or how constitutional matters arose along the way? How a dispute over executive appointments led to ‘judicial review’, why the court heard arguments in 1893 on whether tomato was a fruit or vegetable; or how a shipment of oranges paved the way for creating a legal category for colonies? Or how a clumsy handwritten petition written from prison led to granting Clarence Gideon and everybody else the fundamental right to counsel (having a lawyer)?

The nature and function of the US constitution explains these oddities. For instance, most of the questions discussed in this class have to do with one or another very short passage of the Bill of Rights. Establishing fundamental civil rights, these amendments are both succinct and vague, or flexible enough to be applied to a future crisis or context that the drafters could not possibly conceive. Think of how US society and norms have changed over time. Is the composition of the court decisive in shaping the future of the US? Think of the use of advanced technology. So what amendment, do you think, would protect the privacy of your emails? Is there a relevant passage in the Constitution? How expansive is the freedom of speech and freedom of press? Can you burn the flag, wear black armbands, say something nasty to a police officer? Can the press publish classified documents or leak sensitive information? We will explore and debate these questions.

Proposed schedule (Detailed description with readings and assignments on the second page)

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| **1** | **Introduction**, resources (Oyez, Cornell Law, Justia), reading SC opinions (petitioner, respondents, facts/syllabus, decision and cited precedents, majority/minority opinions)  |
| **2** | From ***Marbury v Madison*** to the current Court. Evolution of **Judicial** **Review**, Checks and Balances, Composition. Law and popular culture. |
| **3** | ***Dred Scott, Plessy, Brown*** – towards equal citizenship. Since all these are familiar, we are refreshing our memories on the historical context/impact of these cases and will dig a little bit into the legal reasoning |
| **4** | Outlawing Affirmative Action: backward, forward, or correcting course? *Bakke, Bollinger, SFFA v Harvard* arguments for and against retaining **affirmative action**.  |
| **5** | Argument War I / **Playing Court**: your arguments for and against retaining affirmative action.  |
| **6** | Limits **on freedom of speech and press, or data privacy** |
| **7** | Argument War II. / **Playing Court**. Conflict of Free Speech and National Security |
| **8** | 2nd Amendment transformation: From collective and state rights to raise a militia (1791) to individual **right to own a gun** and use for the purposes of self-defense in the home (2008) and in public (2022) |
| **9** | From ***Roe* to *Dobbs*** |
| **10** | Current docket, **critical cases in 2024**, Justices up-close and personal |
| **11** | End term test and course summary |

**Assessment***:* Your final grade is based on the following elements: Your regular preparation for and active participation in class discussions; your “briefs” (aka presentation) delivered in class. end-term test (a series of short essay questions based on task sheets, readings, and class discussions)

Preliminary **schedule** of discussion **topics and assignments**:

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| Mar 7 | **Introduction** and goal orientation. We will briefly review (or refresh our memories on) the Court’s functions and how a decision can shape society or government (landmark decisions, various lists). We will check out resources and learn **how to read a Supreme Court opinion** (Parties, Facts, Syllabus, Cited Precedents, Majority, Concurring and Dissenting Opinions) and will discuss the meaning of Conservative v Liberal, Originalist or Textualist in the SC context. Readings: Tiffany Middleton. (2013) “How to Read a Supreme Court Opinion” *Social Education* 77(1), pp 32–35. National Council for the Social Studies. <https://www.socialstudies.org/system/files/publications/articles/se_77011332.pdf>. A streamlined list of Landmark Decisions and a guideline for making sense of SC documents will be distributed in class. Also, come to class having seen *The Pelican Brief* (1993); |
| Mar 14 | Evolution of the Supreme Court and its powers. ‘Crash Course in Judicial Review’. We will analyze the competing perspectives that resulted in the Marbury v. Madison case, and will evaluate how a system of checks and balances has functioned and changed over time. We will also cite examples when judicial review overturned or invalidated executive order, or invalidated congressional act. We will also chat about how ‘courtroom dramas’ shape the American legal imagination. Readings: Article III of the Constitution; ***Marbury v Madison*** (1803); Federalist #78 (Hamilton on judicial review); We will also briefly discuss Marshall’s opinion in *Worcester v Georgia* (1832); On popular representation: Taunya L. Banks, “Civil Trials: A Film Illusion?”(2017). *Fordham Law Review*. vol 85, issue 5, article 3 pp 1969-1985. Available at: <https://ir.lawnet.fordham.edu/flr/vol85/iss5/3>  |
| Mar 21 | *Dred Scott,* ***Plessy v Ferguson, Brown v Board of Education***. Landmark cases of race relations. We will revisit these cases and discuss the original suit in its historical context and the validity of legal reasoning, inventing new legal doctrines, the power of dissent in *Plessy*, and the ingenuity of Thurgood Marshall’s argument in *Brown*. **Reading:** Highlights of the courts’ opinions. Individual research; Assignments: Task Sheet 2, Skills development: summarizing a landmark case in your own words / **ICivics Activity Sheet**.  |
| Apr 4 | Affirmative Action, Equal Opportunity, and the 14th Amendment Equal Protection Clause. Readings for this class: Adam Liptak. "Supreme Court Rejects Affirmative Action Programs at Harvard and U.N.C." *The New York Times*. June 29, 2023. <https://www.nytimes.com/2023/06/29/us/politics/supreme-court-admissions-affirmative-action-harvard-unc.html>, Kende Ágnes. „Mi az az affirmative Action és milyen hatással jár az eltörlése” *Qubit*. 2023 július 10. <https://qubit.hu/2023/07/10/mi-az-az-affirmative-action-es-milyen-hatassal-jar-az-eltorlese>For next class: Excerpts from the Majority (Roberts) and the Dissenting (Sotomayor) opinions <https://supreme.justia.com/cases/federal/us/600/20-1199/#tab-opinion-4758914>; Facts, Question, Conclusion in *Regents of the University of California v Bakke* (1978) <https://www.oyez.org/cases/1979/76-811>; Facts, Question, Conclusion in *Grutter v. Bollinger* (2003) <https://www.oyez.org/cases/2002/02-241>; Highlights from the Majority opinion (O’Connor) on affirmative action in higher education. Rohstein at al. Abstract. “Was Justice O’Connor Right? Race and Highly Selective College Admissions in 25 Years”. <https://gspp.berkeley.edu/research-and-impact/publications/was-justice-oconnor-right-race-and-highly-selective-college-admissions-in-2>  |
| Apr 11 | **Playing Court/Argument War I.** Should Affirmative Action be illegal? Divided into adversary parties, you will select and present the most compelling arguments for or against outlawing AA. Your group will not only present but also defend these ideas and will challenge the other party’s arguments. Note that **your home assignment for this class** is collecting key arguments from court opinions, and outlining your own reasoning (may include cited legal precedents as well as reasoning about conflicting values, potential implications etc).  |
| Apr 18 | Conflicting rights: Right to Privacy v National Security or Freedom of the Press v National Security,. Readings: ***New York Times Co. v United States*** (1971). C-Span. Landmark Cases. <https://landmarkcases.c-span.org/Case/25/New-York-Times-v.-United-States>. This is a 90-minute feature documentary. Make notes on the competing perspectives and legal reasoning. ***Texas v Johnson*** (1989). Facts and Case Summary. <https://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-texas-v-johnson>  |
| Apr 25 | Playing Court/Argument War II—This time around you will be working in smaller groups and researching and presenting arguments for near-unlimited freedom of speech / or for certain limits vis-à-vis the state’s security interest, national symbols, or engaging with law enforcement.  |
| May 2 | We will discuss the original meaning (1791) and the changing interpretation of the 2nd Amendment, particularly in ***District of Columbia v Heller*** (2008), and the expansion of this new interpretation in *McDonald v City of Chicago* (2010) and *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022). Readings: Highlights from JUSTIA; William Harwood. “The Much Misunderstood Second Amendment” *TED Talk* <https://www.ted.com/talks/william_harwood_the_much_misunderstood_second_amendment>. Recommended Reading: Select pages from Stephanie Blum. “Drying Up the Slippery Slope: A New Approach to the Second Amendment” *Buffalo Law Review*. Vol 67. No 4. pp 961-1005.  |
| May 9 | From *Roe v Wade* (1973) to the *Dobbs* (2022) decision. You all know the implications of these landmark cases. We will delve a bit into the jurisprudence, legal reasoning, choice of/lack of relevant passages of the constitution and discuss how/why a conservative justice wrote the opinion in *Roe*, and whether the overrule was inevitable in *Dobbs*. Readings: Planned Parenthood of Southeastern Pa. v. Casey (91-744), 505 U.S. 833 (1992), LII/ Cornell Law <https://www.law.cornell.edu/supct/html/91-744.ZO.html>; scan the O’Connor opinion for “undue burden”, viability, and applicability of the 14th Amendment; *Dobbs v Jackson Women’s Health Organization (2022)*. Summary, Excerpts from Majority Opinion (Alito), Concurring (Roberts), Dissenting (Breyer, Kagan, Sotomayor) Opinions. *National Constitution Center.*<https://constitutioncenter.org/the-constitution/supreme-court-case-library/dobbs-v-jackson-womens-health-organization>; We will watch a short PBS docu in class on the 1973 deliberations.  |
| M 16 | What’s on the docket? Current agenda and critical 2024 cases. Getting up-close-and-personal with the Justices. We have made mentions of the current and many former iconic justices (from John Marshall to the “Great Dissenter” John Marshall Harlan, firsts of a kind Thurgood Marshall and Sandra Day O’Connor, or the last liberal fortress Ruth Bader Ginsberg) along the way. Pick your fave and make a short introduction. Possible readings: Aaron Blake and Rekha Tenjarla. “What the 14th Amendment says about whether Trump can be on the ballot.” *The Washington Post*. February 6, 2024. <https://www.washingtonpost.com/politics/interactive/2024/14th-amendment-trump-ballot/>, Supreme Court Oral Arguments and possible decision; Liptak/NYT on behind-the-scenes deliberations in Dobbs, and on whether this is an activist court: <https://www.nytimes.com/2023/12/15/us/supreme-court-dobbs-roe-abortion.html>, <https://www.nytimes.com/2024/01/29/us/supreme-court-precedent-chevron.html>.  |
| M 25 | End-Term Test and course summary |

Requirements and Practices:

**Discussion-based** seminar course. Your preparation and active participation in a steady fashion is required. You will read the assigned texts (listed above for each class session, but finalized in class), complete the attendant task sheet (if there is any), and bring your own copy and notes to class. It is recommended to use a small format notebook for this class (we will discuss the potential use of a cheat sheet for the end-term test). Occasional pop-up quizzes are possible (feedback purposes).

**Texts/Reading assignments**: your readings include original source documents (the published opinions of the Court, or transcripts of proceedings), scholarly essays, news media reports, films, and educational materials. Read the assigned text(s) for the dates given, highlight key ideas and concepts, and make notes. In the absence of alternative reading, you will, as a default, consult JUSTIA for the review and opinions of the cases for the upcoming class.

You are also encouraged to consult other materials (quick research) and formulate your own opinion. For Case Briefs (sign up for a case/date) and Introduction of a Justice (May 16 class), you are to conduct your own research and recap your findings; you must indicate/reference all your sources. We will also engage in class with a wide range of culture products from political cartoons to movie clips, documentaries, television news, or interviews.

**Oral Briefs (Presentation)**: Students are to deliver one or two in-class briefs. One of these is a brief oral recap of a court case in our syllabus (who sued whom over what? What was the constitutional question at stake? How did the court reason? What are the most notable implications?). A Justice profile includes highlights of career, leaning and decision-making pattern/style, or what they are famous for.

**End Term** test will feature short essay questions based on readings and class discussions. You can use a mind-map style, handwritten A4 cheat sheet of your own notes. **Possible Pop-up** quizzes will feature a few concept questions or a short-essay question reflecting on previous class discussion or the assigned reading and serve as feedback on your understanding of the material.

**Attendance and Evaluation**:

1. Please make your priority to attend in person discussions. If you are bound to miss classes due to illness (or symptoms make you cautious), let the instructor know immediately. **Missing a class does not exempt you from preparing** for the next class**. Assignments should be turned in notwithstanding.** Do not miss a class for an alluring alternative activity. More than **3 absences or missing 3 weekly assignments** result in **“incomplete”.**
2. Save for emegencies, **no-show for your case brief entails an F mark for that component**. Missing both Argument Wars leads to minimum scores for in-class activity. So plan your absences cautiously and judiciously.
3. Your overall course grade will be based on these components with approximate weighs indicated in parenthesis. Briefs (aka presentations): 20%; End-term test: 30%; Steady preparation for classes (Task sheets and pop-up quizzes: 20%; “Argument Wars” and active participation in class discussions: 30%.