Freedom of speech — Comm 3631 / Fall 2019

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Course description and objectives

This is a course about the theory and practice of "freedom of speech" as it has shifted and changed in the US over the past century or so. Some of the major questions we'll examine this semester include:

- Where does the idea of "free speech" come from? Why is it something our culture values?
- Is free speech a right or a privilege?
- Who is allowed to speak and what are they allowed to say?
- What responsibilities (if any) go along with the right to free speech?
- Should free speech encompass non-verbal forms of communication?
- Is free speech a necessary feature of a democracy?
- What limits (if any) do we need to place on free speech?
- How do we distinguish "expression" from "action"?
- And who's empowered to make these decisions anyway?

None of the big questions we'll address this semester have easy answers. Your grades will depend on (1) your ability to think _critically_ about the ideal role of free speech in a democratic society, and (2) your ability to _argue_ your positions on those issues persuasively, rather than your ability to memorize and repeat the "right" answers.

Readings

All the required readings are available via the course Canvas site.

N.B.: You can find summaries and "translations" of most of our readings online. Use these at your own risk.

- Those summaries (especially of the SCOTUS opinions) are not guaranteed to cover all the facts/arguments from the readings that will matter to us.
- Milton's version of English was standard when he was writing in the 17th century, but it's not always easy for contemporary readers. Modernized versions of his essay might be helpful if you're struggling to make sense of his prose style -- but it also leaves you at the mercy of the "translator" in question. (Such versions also run contrary to Milton's argument that altering an author's manuscript is a kind of violence.)
- You're responsible for knowing the versions of our readings available on Canvas. You _don't_ want to get caught out relying on a summary that leaves out crucial details or (worse) that misreads the original text.

Canvas

If you're on the course roster, you should already have access to the course's Canvas site. Log in to the U's main Canvas page (https://canvas.umn.edu/) and select "COMM 3631" from either the Dashboard or the Courses menu. We will use Canvas for several things this semester:

- access to the official course documents and assignments
- access to all our required readings
- a graded course blog where you will contribute posts and comments about the course material
- details about your course grade
- a repository for supplemental materials (e.g., writing aids, optional media examples)
- occasional business-related announcements about the course

More information on Canvas can be found at:

- https://community.canvaslms.com/docs/DOC-10701 [text-based guide]
- https://community.canvaslms.com/videos/1124-canvas-overview-students [video tutorial]

[N.B.: There are Canvas smartphone apps (search for "Canvas Student") for both Android and iOS, though these are probably not the most efficient way to use Canvas on a regular basis.]

Grades

This course uses a "pile it on" grading system, rather than a traditional percentage-based system. Since this is probably not a system that you're used to, it may seem more complicated than it is. In essence, it works like this:

- You begin the semester with 0 points.
- As you complete various grade-worthy tasks, you earn points that get added to your overall grade.
- To earn a passing grade for the course (e.g., a C-), you need to earn at least 70 points overall.
- To earn a grade higher than a C-, you need to earn additional points overall (see the table below).

There are two kinds of points you can earn: "easy" points and "not so easy" points.
- "Easy" points (In-Class Participation, Blog) require (relatively) low-stakes work from you, and they're assessed in a simple binary fashion: i.e., either you earn the point or you don't. [There are some minor qualifiers to that last clause with respect to ICP. See below for more details.]
- "Not so easy" points (Thought Paper, Case Studies) require focused, thoughtful writing from you, and they are assessed on a qualitative scale: e.g., if you do nothing more than meet the minimum requirements for the assignment, you'll earn a C-; higher grades are reserved for work that is more than just competent. [The Thought Paper (see below) actually offers "easy" points for "not so easy" work.]

This course follows the University's published standards for A-F grading:
- A: "achievement that is outstanding relative to the level necessary to meet course requirements"
- B: "achievement that is significantly above the level necessary to meet course requirements"
- C: "achievement that meets the course requirements in every respect"
- D: "achievement that is worthy of credit even though it fails to meet fully the course requirements"
- F: "signifies that the work was . . . completed but at a level of achievement that is not worthy of credit."

Final course grades will be calculated using the following schedule:
- In-class participation (ICP): 25 points maximum
- Course blog: 25 points maximum
- Thought paper (TP): up to 10 points
- Case studies (CSs): up to 10 points each

N.B.: Regardless of your other grades, _the upper limit for course grade is your final ICP grade multiplied by 4_ (e.g., if your final ICP grade is 21, your maximum possible course grade is 84).

Point totals at the end of the semester will translate to letter grades as follows:

A	93+	B+	87-89	C+	77-79	D+	67-69
A-	90-92	B	83-86	C	73-76	D	60-66
		B-	80-82	C-	70-72	F	0-59

- There will be occasional opportunities to earn points via in-class quizzes and/or extra assignments. Such opportunities will be the exception, rather than the rule, and they will not be offered on an individual basis.
- "S/N" grades will only be given to students who have registered for the course on an S/N basis.
- "I" grades will only be given under _extraordinary_ circumstances (i.e., major life emergencies).

Over the course of the semester, you can keep track of your grade in three different ways:
- I will post regular updates to the "Grades" section of the course Canvas site. As a general rule, ICP grades will be updated within 24 hours after the end of each class, and Blog grades will be updated within 24 hours after the end of any given course week.
- I will send you personalized Status Reports after we've passed the 4, 8, and 12 week points in the semester. These will include a summary of your overall point total, as well as a _rough_ estimate of what you'll need to do for the rest of the semester in order to pass the course.
- You can email me to ask where your grade stands.

N.B.: The "Grades" feature on the Canvas site is not equipped to handle a "pile it on" grading system gracefully. In particular, the number it provides on the "Assignments" line is misleading. If I could adjust how Canvas calculates that number (or remove that line from the report), I would. Since that isn't possible, you should ignore that line completely. Otherwise, that report should allow you to keep track of your grade as the semester goes on.

In-class participation (ICP)
This is _not_ a lecture-based course. Our class meetings will be structured around discussions, so you'll need to:
- attend class regularly,
- do the required readings carefully,
- come to class prepared to discuss those readings in thoughtful ways,
- contribute to in our in-class discussions/exercises in a non-trivial fashion.

On any given day, I will do my best to make sure that everyone gets a chance to make meaningful contributions to our conversations. This may mean that I will call on you if you have been exceptionally quiet or, alternately, that I will ask you _not_ to speak for a while if you have been extra talkative and other students have not been heard from.

There is no such thing as an excused absence in this course. If you miss class, you can't participate, and so you can't earn ICP points for that day. Significantly late arrivals and/or early departures will result in lower ICP scores for the days in question.

If you are "present in name only" (PINO) for one of our class meetings, you will _not_ earn ICP points that day. As the term implies, a PINO day happens when you are physically present, but you do not contribute to our discussion in a substantive fashion. This includes (but is not limited to) days when:
- you are present for less than half of a given class meeting,
- you have clearly not done the assigned reading, and/or
- you are primarily a passive spectator in our in-class activities.

Decisions about what counts as a PINO day will be based on my assessment of your in-class performance, and I will email you about any such decision within 24 hours of the class meeting in question.

We have 28 class meetings this semester, each of which allows you to earn up to 1 point toward your ICP grade. The maximum number of ICP points you can earn overall is 25.

Course blog

The blog is an online forum where you and your classmates will stake out clear positions on the _major_ issues raised by our required readings and in-class discussions, and offer persuasive arguments to support those positions. Posts/comments that (1) are primarily summaries of the readings/discussions, (2) focus on minor facets of the readings/discussions, (3) focus on topics outside of the course content, and/or (4) are largely simple statements of (dis)agreement will _not_ count towards your grade.

Blog contributions will be graded every course week: i.e., the seven-day period that begins each Tuesday at 11:15 am. (N.B.: For grading purposes, the last course week of the semester begins at 11:15 am on 10 Dec and ends at _10:00 am on 14 Dec_.) For any given course week, there are two ways to earn points:
- You create a post of _at least 300 words_ of thoughtful commentary about the assigned readings and/or our in-class discussions/exercises. You can earn a maximum of 1 point each course week for such posts.
- You create a comment of _at least 300 words_ of thoughtful response to one of your classmates' posts or comments. You can earn a maximum of 1 point each course week for such comments.

Any given blog contribution must be substantially different from your other contributions to the blog: i.e., you don't earn additional points for rephrasing an argument you've already made in previous posts/comments. Posts/comments shorter than 300 words will _not_ earn points. See "Word count rules" below for more information.

There are 15 course weeks in the semester, each of which allows you to earn up to 2 points toward your Course Blog grade. The maximum number of Course Blog points you can earn overall is 25.

Technical instructions
- Access the blog using the "Discussions" link in the left-hand menu of the course Canvas site.
- Create a new post using the "+Discussion" button in the upper right-hand corner of the page.
- Comment on an existing thread using the "Reply" link beneath that thread's box.

Tips
- There are no reading-related deadlines for the blog: i.e., you can still earn points for "late" posts/comments on "old" readings, as long as you're adding something new to the conversation.
- Your comments should be respectful and constructive -- _especially_ if you are disagreeing with something one of your classmates has written.
- This assignment is configured to reward consistent, semester-long engagement, rather than isolated bursts of "extra" effort. As such, you may find it helpful to pick a regular day/time each week to make your blog contributions.

Thought paper (TP)

In a well-crafted and thoughtful essay of _at least 1000 words_, respond to _both_ of the following prompts:
- Pick one _controversial_ form of expression that you believe _should_ be subject to _governmental_ restrictions of some sort and, in as _persuasive_ a fashion as you can, explain what sort of restrictions you think are appropriate and _why_ you believe this form of expression needs to be legally limited.

- Pick one _controversial_ form of expression (one that's different from the first one) that you believe _should not_ be subject to _governmental_ restrictions of any sort and, in as _persuasive_ a fashion as you can, explain _why_ you believe this form of expression merits such strong protection.

This assignment will be _ungraded_. Assuming you turn the paper in, you should receive 10 points for doing so -- though I reserve the right to assign lower grades (including zeros) to papers that fail to meet the assignment's requirements. You will also receive a "would-have-been" grade and feedback that, ideally, will help you succeed on subsequent assignments. This paper is due by _11:15 am on 10 Sep_. No late papers will be accepted.

Tips
- This essay is not just a chance to state your opinions. Simply sharing an opinion doesn't require much thought, especially without a rationale for why you believe what you do. You should approach this essay as an opportunity to _change_ your audience's opinion about the forms of expression in question.
- Make sure that what you've chosen to write about are forms of _expression_. The line between "expression" and "action" is sometimes fuzzy, but do your best to choose phenomena that clearly belong on the "expression" side of that line. (Example: Murder is an action. An essay explaining the best way to murder someone is a form of expression. A TP arguing for the legalization of murder would _not_ fit the assignment properly, but a TP arguing that "how to" essays on murder should be legal _would_ fit.)
- Make sure that your chosen forms of expression are _controversial_. Your grandma's recipe for hotdish is a form of expression, but unless it includes contraband or poison, it's probably not controversial -- and if there's no controversy, then there's not much of an argument about whether it should be legal.
- Your arguments should focus on potential restrictions made by _the government_ (rather than by private employers, social media platforms, etc.): e.g., a TP about whether the state of Minnesota should ban "hate speech" fits the assignment, but a TP about whether Twitter should ban "hate speech" does not.
- Your main goal in this assignment is to make persuasive arguments about what the law _should_ be -- which may not be the same as what the law actually is. Even if you agree with what the law says about your chosen forms of expression, you need to be able to explain _why_ you think the law is correct.
- Both of the prompts are equally important, and you should devote comparable amounts of thought and space to each one.
- Think carefully about how your answers to the two pieces of this assignment relate to each other. If I can swap your two forms of expression with your two rationales and find your arguments to be just as persuasive, then those arguments aren't as strong as they should be.

Case studies (CSs)
Over the course of the semester, I will post 10 different CS narratives to the course Canvas site -- 5 during the first week of October, 3 during the first week of November, and 2 during the first week of December -- each of which will describe a hypothetical free speech case. For each of these, you can write and submit a report that explains how you would resolve the case in question and why you think your solution is the best one.

For each CS that you submit, your completed report must consist of two parts:
- Two short _lists_ -- one for each of the two main positions in the case -- of the most important facts and arguments that support those positions. Each list should be _at least five items long_ and each item on your lists should consist of _complete sentences_.
- An _essay_ of _at least 1000 words_ that explains how you would resolve the case in question and -- most importantly -- presents a _persuasive argument_ in support of your chosen resolution. Your argument should demonstrate that you are familiar with the required readings most relevant to the case in question. [N.B.: Your lists do _not_ count towards the 1000-word requirement.]

Each CS is worth a maximum of 10 points. CSs earn points on a scale proportionate to the grading schedule above: e.g., a B- paper is worth 8 points, a B paper is worth 8.3 points, and so on. If you submit CSs that earn grades of D+ or below, _only the first such paper will earn points_. You can submit as many (or as few) CSs as you like. That said, the average student will need to submit 3-4 CSs in order to pass the course.

The final deadline for all CSs is _10:00 am on 14 Dec_. That deadline is firm and non-negotiable. The only _potential_ exceptions to this rule involve situations where you have a _documented_ major life emergency.

Other CS advice/rules:

- There is no single "right" answer that I will look for when I grade CSs. The overall quality of the argument you make in any given CS matters more than the specific position you take. That said, some positions are much harder to defend successfully than others. Whatever position you take should be well supported by (a) the available facts and (b) a persuasive, well-constructed argument.
- Remember that your goal isn't simply to demonstrate that you have an opinion: it's to persuade your reader _why_ your position on the issue at hand is the best one (or, at the very least, a better one than most others). CSs that merely assert a position without arguing it will _not_ meet the requirements of this assignment, and the _highest_ grade they will earn is a D+. That same grade ceiling also applies to CSs that offer extended summaries of readings/sources, rather than making an argument of your own.
- Take relevant arguments from our required readings into account when you write up your CSs. You are _not_ obligated to agree with those arguments, but you also aren't allowed to simply ignore them. And even if you _do_ agree with those arguments, you still need to make _a persuasive argument of your own_ for how and why the reading in question is the most appropriate guide to resolving the scenario in the CS.
- Do _not_ attempt to respond to the CSs by inventing additional "facts" that magically make the complications and tensions in the case disappear (e.g., a new amendment to the Constitution, ratified just last week, that somehow settles the case at hand in a clear and obvious way).
- The items on your lists should focus on the specific details of the case in question, rather than generic claims related to free speech. (Example: "The First Amendment protects speech" is _not_ a helpful list item, but "The SCOTUS has consistently held that parades (such as the one in this CS) count as a kind of speech and are subject to First Amendment protection" would be.)

Word count rules

Your goal for any given written assignment should be quality, rather than quantity. The word count requirements represent the _minimum_ amount of writing that you should do in order to produce acceptable work. There's nothing magical about writing 1000 words (for instance) that guarantees you've made a strong argument. That's simply a safe estimate for the _fewest_ words you'll need to make the kinds of arguments that the TP and CSs require.

Some additional word count rules/tips:

- The listed word count requirement for any given assignment is _firm_. There is no such thing as getting "close enough" to the requirement to count. If something you've written falls short of the listed word count, it will _not_ earn a passing grade.
- Different word processing programs use slightly different rules for counting certain kinds of text (e.g., hyphenated words, abbreviations, numbers). As such, it is possible for an essay to produce slightly different word counts depending on which program is doing the counting. Aiming to write essays that are "just barely" long enough is bad practice in general, but it also comes with the risk that what looks to be long enough on your end will register as too short on my end -- and the latter is the count that matters.
- For the Blog: Only your own words count: e.g., 75 words from you plus 250 words quoted from elsewhere will count as 75 words, rather than 325. Similarly, if your contributions include large amounts of filler prose (e.g., extended summaries of the readings, generic greetings, etc.), only the substantive words will count toward your grade. 150 words of "empty" set-up plus 150 words that make a substantive point about the reading in question will count as 150 words, rather than 300.
- For the TP and CSs: Only the main body of your text counts. Headers, footers, titles, reference lists (etc.) and the list portion of CSs do not count. Quotes from other sources _do_ count, but _only_ if those quotes are trimmed to an appropriate length (e.g., do _not_ quote a 75-word passage from one of our readings if you only need 10 of those words for the argument you're making to work well).

Paperless (mostly) assignments

Everything you'll submit for a grade this semester _must_ be submitted digitally. Blog contributions can (obviously) only happen online. All other written assignments must be submitted _via email_ to rodman@umn.edu as _file attachments_ in one of the following formats:

- LibreOffice/OpenOffice (.odt)
- Microsoft Word (.doc or .docx)
- Rich Text Format (.rtf)

Assignments submitted in other formats (including PDFs, hard copies, links to online documents) will _not_ be accepted.

Academic dishonesty

The following is a *partial* list of examples of academic dishonesty:
- plagiarism in any of its forms
- copying assignments (in whole or in part) produced by other students
- "double-dipping" (i.e., using the same work to earn more than one grade -- including attempts to reuse work that you have submitted for a grade in some other course)
- having someone else research and/or write substantial portions of any graded assignment for you
- deleting and/or re-editing blog posts/comments after they've been placed on the course Canvas site
- knowingly assisting someone else in their efforts to engage in any of the above practices

The *minimum* penalty for academic dishonesty is a *zero* for the assignment in question. Put bluntly, the risks are high (plagiarism is usually easy to identify), the penalties are higher (e.g., expulsion from the U), and the potential benefits are usually trivial (e.g., you "earn" enough points to turn a C into a C+).

Some helpful resources to avoid academic dishonesty include:
- https://communitystandards.umn.edu/avoid-violations/avoiding-scholastic-dishonesty
- https://www.gilrodman.com/2015/03/01/how-to-plagiarize-well-tips-for-my-undergraduates-rerun-sunday/

Miscellaneous

- Our discussions will cover topics that are likely to evoke strong differences of opinion. I don't expect our class meetings to produce unanimous agreement about those topics, but I do expect our discussions to be characterized by mutual respect and collegiality. Strong opinions are acceptable; verbal bullying and personal attacks, on the other hand, will *not* be tolerated under any circumstances.
- Significant disruptions of the normal flow of course-related business -- e.g., using cell phones in class, excessive side chatter, premature leave-taking behavior -- may result in grade penalties.
- You may make audio and/or video recordings of class meetings for your personal use, provided you do so without disrupting the ordinary flow of the class. The purchase, sale, and/or public distribution of either written notes or recordings of class meetings is strictly prohibited.
- I will make every reasonable effort to accommodate students' needs relating to religious holidays and/or documented disabilities. By University rule, you must provide written notice (for religious holidays) and/or official documentation (for disabilities) with enough lead time for accommodations to be arranged.
- University policy prohibits sexual harassment as defined in the January 2018 policy statement (see https://policy.umn.edu/hr/sexharassassault). In my role as a University employee, I am *required* to share information that I learn about possible sexual misconduct with the campus Title IX office that addresses these concerns. Questions or concerns about sexual harassment should be directed to the Office of Equal Opportunity and Affirmative Action (274 McNamara).

Reading/assignment schedule

[Readings should be completed prior to the dates listed. All readings can be found on our Canvas site.]

3 Sep	no reading
5 Sep	this syllabus
	"How to Do Well in This Course"
	Milton, *Areopagitica* (part 1)
10 Sep	**Thought paper deadline**
	Milton, *Areopagitica* (part 2)
12 Sep	Mill, *On Liberty* (chs. I-II)
17 Sep	Mill, *On Liberty* (chs. III-IV)
19 Sep	Mill, *On Liberty* (ch. V)
	Declaration of Independence
	US Constitution (including Amendments)
	"A Too-Brief Guide to the US Supreme Court"

24 Sep	<u>"clear and present danger"</u>
	Schenck v. United States (1919)
	Gitlow v. New York (1925)
	Whitney v. California (1927)
	Brandenburg v. Ohio (1969)
26 Sep	<u>"fighting words"</u>
	Chaplinsky v. New Hampshire (1942)
	Terminiello v. Chicago (1949)
	Cohen v. California (1971)
1 Oct	<u>political speech</u>
	Debs v. United States (1919)
	Stromberg v. California (1931)
	De Jonge v. Oregon (1937)
	Watkins v. United States (1957)
	Lamont v. Postmaster General (1965)
3 Oct	Tinker v. Des Moines (1969)
	Minnesota Voters Alliance v. Mansky (2018)
8 Oct	<u>public signs</u>
	City Council v. Taxpayers for Vincent (1984)
	Ladue v. Gilleo (1994)
10 Oct	<u>hate speech</u>
	R.A.V. v. St. Paul (1992)
	Wisconsin v. Mitchell (1993)
	Virginia v. Black (2003)
15 Oct	<u>the pledge of allegiance</u>
	Minersville v. Gobitis (1940)
	West Virginia v. Barnette (1943)
17 Oct	<u>flag burning</u>
	Street v. New York (1969)
	Texas v. Johnson (1989)
	United States v. Eichman (1990)
22 Oct	<u>the press and national security</u>
	New York Times v. United States (1971)
24 Oct	<u>libel / defamation / emotional distress</u>
	New York Times v. Sullivan (1964)
	Hustler v. Falwell (1988)
	Snyder v. Phelps (2011)
29 Oct	<u>obscenity, nudity, and pornography</u>
	Jacobellis v. Ohio (1964)
	Miller v. California (1973)
31 Oct	Barnes v. Glen Theatre (1991)
	Erie v. Pap's (2000)
5 Nov	Ashcroft v. Free Speech Coalition (2002)
	Packingham v. North Carolina (2017)
7 Nov	<u>broadcasting</u>
	FCC v. Pacifica Foundation (1978)
12 Nov	FCC v. Fox TV (I) (2009)
	FCC v. Fox TV (II) (2012)
14 Nov	<u>internet</u>
	Reno v. ACLU (1997)
	United States v. American Library Association (2003)

19 Nov	<u>libraries and the arts</u>
	Board of Education v. Pico (1987)
	NEA v. Finley (1998)
21 Nov	<u>government speech</u>
	Pleasant Grove City v. Summum (2009)
26 Nov	Walker v. Sons of Confederate Veterans (2015)
28 Nov	**NO CLASS -- THANKSGIVING**
3 Dec	Matal v. Tam (2017)
5 Dec	<u>parades and honors</u>
	Forsyth County v. Nationalist Movement (1992)
	Hurley v. Irish-American Gay Group of Boston (1995)
10 Dec	United States v. Alvarez (2012)
14 Dec	**Final deadline for all Case Studies, Blog posts/comments**
(10:00 am)	