

**LIBERTY, EQUALITY & CITIZENSHIP  
IN UNITED STATES HISTORY**  
(American Legal History Seminar: Law 864—511)

**Professor Matthew Lindsay**

**Course Overview**

In a formal, legal sense, “citizenship” refers to the set of rights and obligations that attach to one’s membership in a political community. As an object of political and cultural discourse, however, the concept of citizenship—United States citizenship, in particular—is often freighted with a much broader set of questions: *What does it mean to be American? What are the indices of full membership in the American polity? Who can satisfy the conditions of full membership at a given moment in history, and who cannot? To what kinds of rights and opportunities is a citizen entitled?* In this Seminar, we will examine how the meaning of American citizenship evolved between the nation’s founding and the middle of the twentieth century. We will consider how both the content of, and criteria for admission to, full citizenship have shifted in relation to profound upheavals in American life and labor and the gradual, if halting, ascendancy of racial and gender egalitarianism. In doing so, we will place particular emphasis on two foundational, perpetually contested, and remarkably protean elements of American civic identity: “liberty” and “equality.”

**Class Meetings:** Thursday, 1:30 – 4:15 p.m. in AL 602

**Office Hours:** Wednesday, 3:00–5:00 & 7:00–8:00 p.m.

**Course Materials**

Required Text: ERIC FONER, *THE STORY OF AMERICAN FREEDOM* (1998) [available at the UB Bookstore] Additional required readings will be posted on TWEN.

Course Website: Required readings for each class will be posted on TWEN. Please consult TWEN regularly for the current version of the syllabus, as I expect to update the course readings periodically throughout the semester.

Suggested Reading: The syllabus lists “suggested readings” for each class meeting. Unless you have signed up to do a Scholarship Report on a particular reading (see “Scholarship Reports” under Course Requirements, below), I do not expect you to read any of these materials.

**Course Website:** This course has a TWEN page, where I will post updated versions of the course syllabus, assignments, and other course materials. I will also use the TWEN email function to communicate important course information.

## Course Requirements

Research Paper (80%): Each student will produce a research paper on a topic that is thematically related to the subject of the Seminar. In order to satisfy the UB upper-level writing requirement, papers must be at least 25 pages long and conform to law review Comment format. Paper topics must be approved by me. Although papers should relate to some aspect of liberty, equality and/or citizenship, I expect to be fairly flexible with respect to topics. For example, papers need not focus on either the United States or the historical period covered by the course.

Paper **proposals** will be due Sunday, **February 2**.

An **outline** will be due on Sunday, **February 23**.

A **draft** of the research paper will be due on Sunday, **April 5**.

The **final paper** will be due on Monday, **April 27**.

Presentation (5%): Students will do an oral presentation on a citizenship/liberty/equality-related topic of their choice. Presentations should be between 10 and 15 minutes long. While you may choose to delve further into an issue addressed in class, the assignment is intended to encourage you to look beyond the natural scope of the course, perhaps to contemporary politics, culture, or law, either within or outside of the United States. I encourage you to use PowerPoint, audio, video, or any other medium that will help you present your topic in an engaging way. I will post a sign-up sheet during Week 1.

Scholarship Report (5%): Students will deliver a 5- to 10-minute oral report on a scholarly book or article of their choice. Suggested books and articles are listed on the syllabus for each class meeting under “Suggested Reading.” Students are welcome to choose a source that is not listed on the syllabus; if you do, however, please clear it with me in advance. I will post a sign-up sheet, which you will use to claim a date and book/article.

Research Presentation (5%): Students will present the results of their research during the final four weeks of the course. Research presentations should be between 10 and 15 minutes long and will be followed by questions from the class. I will post a sign-up sheet during Week 3.

Each student will also deliver a five-minute oral comment on a classmate’s draft, immediately following the classmate’s presentation. I will assign each student a specific draft to critique several weeks before the oral presentations.

Class Participation/Discussion Questions (5%): I expect you to come to class prepared to discuss the material. In addition, each student will email to me two discussion topics or questions, by 10:00 p.m. on the evening before class—i.e., by Wednesday at 10:00 p.m. Although your questions do not need to be lengthy or fully developed, they should demonstrate that you have read and engaged with the reading for that week.

## School of Law and Class Policies

**Attendance:** Class attendance is a primary obligation of each student. A student's right to be enrolled in the course and to take the final examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) may be compelled to withdraw from the course or barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed number of absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

An attendance sheet will be circulated at the beginning of every class. Students who sign in will be considered "present and prepared" (and thus eligible to be called on); students who do not sign in will be counted absent. Arriving late to class can be disruptive and distracting for other students. At my discretion, persistent late arrival to class may be counted as an absence and may factor into your participation grade.

**Class Cancellation:** If I need to cancel a class, notice will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore website or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should assume that classes are running on the normal schedule.

**Computers:** Students are permitted to use laptops for note-taking and encouraged to use them for exams. However, computer use must be respectful of others and should not impede your engagement in class. Using your computer in class for purposes other than note-taking and class-related research is highly distracting—to you and, more importantly, to your classmates—and is prohibited. I reserve the right to ban the use of the internet, or to ban laptops entirely, in the event that computer use becomes disruptive.

**Professionalism:** Because unprofessional or uncivil behavior inhibits learning, I expect your conduct in class to conform to basic norms of professionalism. This includes arriving to class on time and prepared to participate; not leaving the room in the middle of class; turning off your cell phone; and avoiding computer use that is unrelated to class. While I encourage you to voice reasoned disagreement with each other and/or with me, it is essential that you do so with courtesy and respect.

**Time Expectations:** American Bar Association Standards for Law Schools establish guidelines for the amount of time that students should expect to devote to law classes. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work per week for each credit earned in a class.

**Academic Integrity:** Students must refrain from acts that they know or have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter (including attendance) and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at [http://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/](http://law.ubalt.edu/academics/policiesandprocedures/honor_code/).

**Disability Policy:** If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University’s facilities, please contact the Office of Academic Affairs, at [ublawacadaff@ubalt.edu](mailto:ublawacadaff@ubalt.edu) or (410) 837-4468.

**Title IX Sexual Misconduct and Nondiscrimination Policy:** University of Baltimore’s Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees, and staff members report to the university any known, learned, or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB’s nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

**Course Evaluations:** It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

## Syllabus

### **Week 1: January 16: In Search of American Civic Identity: Freedom, Equality and the Meaning of Citizenship**

*In class: Course overview; overview of the research process; thematic lecture; discuss Tocqueville*

#### Required Reading:

- Foner, *The Story of American Freedom*, “Introduction”
- Rogers M. Smith, *Civic Ideals* (pp. 13-18) [TWEN]
- Alexis de Tocqueville, *Democracy in America* (excerpts) [TWEN]

### **Week 2: January 23: The English Heritage and the Conditions of Citizenship in the New Nation**

*In class: Discuss readings; model Scholarship Report; developing paper topics; primary and secondary research.*

#### Required Reading:

- Foner, ch. 1
- Declaration of Independence [TWEN]
- Constitution of Massachusetts (1780) [TWEN]
- Thomas Jefferson and Alexander Hamilton debate American Political Economy [TWEN]
- Thomas Jefferson on the Louisiana Purchase [TWEN]

#### Suggested:

- Bernard Baylin, *Ideological Origins of the American Revolution* (1967)
- Gordon S. Wood, *Empire of Liberty: A History of the Early Republic, 1789-1815* (2011)
- Gordon S. Wood, *The Radicalism of the American Revolution* (1991)
- Douglas Bradburn, *The Citizenship Revolution: Politics and the Creation of the American Union, 1774–1804* (2009)
- Robert Middlekauff, *The Glorious Cause: 1763–1789* (1986)
- Christopher Tomlins, *Freedom Bound: Law, Labor, and Civil Identity in Colonizing English America, 1580–1865* (2010)
- Michael J. Klarman, *The Framers’ Coup: The Making of the United States Constitution* (2016)
- Bernard Bailyn, *To Begin the World Anew: The Genius and Ambiguities of the American Founders* (2003)
- Peter S. Onuf, *Jefferson’s Empire: The Language of American Nationhood* (2000)

### **Week 3: January 30: Liberty, Equality, and the Problem of Slavery**

*In class: Discuss readings; Scholarship Reports; Presentations*

#### Required Reading:

- FONER, pp. 29-37
- Constitution of the United States [TWEN]
- THOMAS JEFFERSON, NOTES ON THE STATE OF VIRGINIA (1785) (excerpt) [TWEN]

#### Suggested:

- Edmund S. Morgan, *American Slavery—American Freedom* (1975)
- David Brion Davis, *The Problem of Slavery in the Age of Revolution* (2014)
- Paul Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson* (2000)
- Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (2000)
- Edward Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (2017)
- Ibram X. Kendi, *Stamped from the Beginning: The Definitive History of Racist Ideas in America* (2016)

**\*\*\*Paper Proposals are due on Sunday, 2/2, at 10:00 p.m. on TWEN \*\*\***

### **Week 4: February 6: The “American People” and the Problem of Heterogeneity**

*In class: Discuss readings; Scholarship Reports; Presentations; brief overviews of paper topics and research questions*

#### Required Reading:

- Foner, pp. 37-45
- Thomas Jefferson, *Notes on the State of Virginia* (1785) (excerpt) [TWEN]
- Hector St. John de Crevecoeur, “What is an American?” (excerpt) [TWEN]
- Naturalization Act of 1790 [TWEN]
- Congress debates the Alien Act of 1798 [TWEN]
- *Johnson and Graham’s Lessee v. M’Intosh* (1823) [TWEN]

#### Suggested:

- Marilyn C. Baseler, “*Asylum for Mankind*”: *America 1607-1800* (1998)
- Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (2006)
- Anthony C. Wallace, *The Long, Bitter Train: Andrew Jackson and the Indians* (1993)
- Stuart Banner, *How the Indians Lost their Land: Law and Power on the Frontier* (2005)
- Francis Jennings, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (1975)
- Lindsay G. Robertson, *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands* (2005)

## **Week 5: February 13: Sex and Citizenship in the Early Republic**

*In class: Discuss readings; Scholarship Reports; Presentations*

### Required Reading:

- Linda K. Kerber, “The Republican Mother and the Woman Citizen: Contradictions and Choices in Revolutionary America” [TWEN]
- Abigail & John Adams Discuss Women and Republican Government (1776) [TWEN]
- William Blackstone, *Commentaries on the Laws of England*, ch. 15: “Of Husband and Wife” (1765) [TWEN]

### Suggested:

- Ruth H. Block, “The Gendered Meanings of Virtue in Revolutionary America,” *Signs* (1987)
- Carol Pateman, *The Sexual Contract* (1988)
- Linda K. Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (1980)
- Mary Beth Norton, *Liberty’s Daughters: The Revolutionary Experience of American Women, 1750-1800* (1996)
- Mary Beth Norton, *Founding Mothers and Fathers: Gendered Power and the Forming of American Society* (1996)
- Kathleen M. Brown: *Good Wives, Nasty Wenches, & Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (1996)
- Teresa Anne Murphy, *Citizenship and the Origins of Women’s History in the United States* (2013)

## **Week 6: February 20: Wage Labor & the Political Economy of Citizenship before the Civil War**

*In class: Discuss readings; Scholarship Reports; Presentations*

### Required Reading:

- FONER, ch. 3
- James Kent, “Against Universal Suffrage” (1821) [TWEN]
- Orestes Brownson, “The Laboring Classes” (1840) [TWEN]
- Speech by Rep. James Bowlin in Congress (1846) [TWEN]
- Abraham Lincoln, “Address Before the Wisconsin Agricultural Society” (1859)

### Suggested:

- Barbara Welke, *Law and the Borders of Belonging in the Long Nineteenth Century United States* (2010)
- Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (2006)
- Daniel Walker Howe, *What God Hath Wrought: The Transformation of America, 1815-1848* (2009)
- Harry L. Watson, *Liberty and Power: The Politics of Jacksonian America* (1990)
- Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (1970)
- Heather Cox Richardson, *To Make Men Free: A History of the Republican Party* (2014)

**\*\*\* Research Paper Outlines are due Sunday, February 22, at 10:00 p.m. on TWEN \*\*\***

**Week 7: February 28: Contesting the Borders of Belonging: Race, Sex & Citizenship in the Antebellum Period**

*In class: Discuss readings; Scholarship Reports; Presentations*

Required Reading:

- Foner, ch. 4
- Declaration of Seneca Falls Convention (1848) [TWEN]
- Frederick Douglass, “What to the Slave is the Fourth of July?” (1852) [TWEN]
- Abraham Lincoln, “First Inaugural Address” (1861) [TWEN]

Suggested:

- Eric Foner, *The Fiery Trial: Abraham Lincoln and American Slavery* (2011)
- David Brion Davis, *The Problem of Slavery in the Age of Emancipation* (2014)
- Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations & the Political Culture of the South Carolina Low Country* (1995)
- Linda K. Kerber, *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship* (1999)
- Reginald Horsman, *Race and Manifest Destiny* (1981)
- Nancy Isenberg, *Sex and Citizenship in Antebellum America* (1998)
- Heather Cox Richardson, *To Make Men Free: A History of the Republican Party* (2014)

**Week 8: March 5: The Civil War and the Reconstruction of Citizenship**

*In class: Discuss readings; Scholarship Reports; Presentations*

Required Reading:

- Foner, pp. 95-105
- Abraham Lincoln, “Second Inaugural Address” (1865) [TWEN]
- Black Code of Mississippi (1866) [TWEN]
- Civil Rights Act of 1866 [TWEN]
- Congress Debates Women’s Suffrage in Washington, D.C. (1866) [TWEN]
- *Plessey v. Ferguson* (1896) [TWEN]

Suggested:

- Drew Gilpin Faust, *This Republic of Suffering: Death and the American Civil War* (2009)
- David W. Blight, *Race and Reunion: The Civil War in American Memory* (2002)
- James McPherson, *Battle Cry Freedom: The Civil War Era* (2003)
- Evelyn Nakano Glenn, *Unequal Freedom: How Race and Gender Shaped American Citizenship and Labor* (2004)
- Daniel J. Sharfstein, *Thunder in the Mountains: Chief Joseph, Oliver Otis Howard, and the Nez Perce War* (2017)
- Moon-Ho Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (2006)



**Week 9: March 12: The Fourteenth Amendment and the Meaning of Economic Liberty**

*In class: Discuss readings; Scholarship Reports; Presentations*

Required Reading:

- Foner, pp. 105-113, 115-130
- The Fourteenth Amendment to the Constitution of the United States (1868) [TWEN]
- *The Slaughterhouse Cases* (Field, J., dissenting) (1873) [TWEN]
- *Bradwell v. Illinois* (1873) [TWEN]

Suggested:

- Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (1997)
- David Montgomery, *Beyond Equality: Labor and the Radical Republicans, 1862-1872* (1981)
- Garrett Epps, *The Fourteenth Amendment and the Fight for Equal Rights in Post-Civil War America* (2007)
- William E. Nelson, *The Fourteenth Amendment: From Political Principle to Judicial Doctrine* (1988)

**Week 10: March 26: The Reconstruction of the Immigration Power; Citizenship in the new American Empire**

*In class: Discuss readings; Scholarship Reports; Presentations*

Required Reading:

- Foner, pp. 130-37
- *The Chinese Exclusion Case* (1889) [TWEN]
- Theodore Roosevelt, “The Strenuous Life” [TWEN]

Suggested:

- Sarah H. Cleveland, “Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteen-Century Origins of Plenary Power over Foreign Affairs,” *U. of Texas Law Rev.* (2002)
- Sam Erman, *Almost Citizens: Puerto Rico, the U.S. Constitution, and Empire* (2019)
- Lucy Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (1995)
- Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (2006)
- Gerald L. Neumann, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (1996)
- Matthew J. Lindsay, “Immigration, Sovereignty and the Constitution of Foreignness,” *University of Connecticut Law Review* (2013)
- Bartholomew H. Sparrow, *The Insular Cases and the Emergence of American Empire* (2006)
- Amy Kaplan, *The Anarchy of Empire and the Making of U.S. Culture* (2005)
- Matthew Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (1998)
- Erika Lee, *At America’s Gates: Chinese Immigration During the Exclusion Era, 1882-1943* (2003)
- Erika Lee, *The Making of Asia America: A History* (2016)
- Kunal Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600-2000* (2015)

**Week 11: April 2: The “Citizen Worker”**

*In class: Discuss readings; Research Presentations*

Required Reading:

- Foner, ch. 7
- George E. McNeil, “The Problem of Today” (1887) [TWEN]
- Samuel Gompers, “What does the Workingman Want?” (1890) [TWEN]
- F. W. Taylor, *Scientific Management* (1910) (excerpt) [TWEN]

Suggested:

- Lawrence B. Glickman, *A Living Wage: American Workers and the Making of Consumer Culture* (1997)
- David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (1992)
- Daniel Rogers, *The Work Ethic in Industrial America, 1850-1920* (1974)
- Jonathan Levy, *Freaks of Fortune: The Emerging World of Capitalism and Risk in America* (2012)
- Naomi R. Lamoreaux and William J. Novak, eds., *Corporations and American Democracy* (2017)

**\*\*\* Research Paper Drafts are due Sunday, April 5, at 10:00 p.m. on TWEN \*\*\***

**Week 12: April 9: Citizenship in the Progressive Era: A New Nationalism?**

*In class: Discuss readings; Research Presentations*

Required Reading:

- Foner, ch. 8
- Hiram Wesley Evans, “The Ku Klux Klan’s Fight for Americanism” (1926) [TWEN]

Suggested:

- Christopher Capozzola, *Uncle Sam Wants You: World War I and the Making of the Modern American Citizen* (2010)
- Aileen S. Krador, *The Ideas of the Woman Suffrage Movement, 1890-1920* (1981)
- Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (2005)
- Jonathan M. Hansen, *The Lost Promise of Patriotism: Debating American Identity, 1890-1920* (2003)
- Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (2009)

**Week 13: April 3: The New Deal, “Social Citizenship,” and the Consumer-Citizen**

*In class: View and discuss audio-video sources; Research Presentations*

Required Reading:

- Foner, ch. 9

Suggested:

- Lisbeth Cohen, *Making a New Deal: Industrial Workers in Chicago, 1919-1939* (1990)
- Alan Brinkley, *The End of Reform: New Deal Liberalism in Recession and War* (1995)
- Lisbeth Cohen, *Consumer's Republic: The Politics of Mass Consumption in Postwar America* (2003)
- Ira Katznelson, *Fear Itself: The New Deal and the Origins of Our Time* (2013)
- David Kennedy, *Freedom from Fear: The American People in Depression and War, 1929-1945* (2001)
- Monica Prasad, *The Land of Too Much: American Abundance and the Paradox of Poverty* (2012)

**Week 14: April 25: The Civil Rights Era—A Second Reconstruction of Citizenship?**

*In class: View and discuss audio-video sources; Research Presentations*

Required Reading:

- Foner, pp. 249-62, 275-87

Suggested:

- Michael J. Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (2006)
- Thomas J. Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (2005)
- Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (2000)
- Richard Rothstein, *The Forgotten History of How our Government Segregated America* (2017)
- Michelle Alexander and Cornel West, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2012)