

Pontifícia Universidade Católica do Paraná

Escola de direito

The Judicial Protection of Rights in the Common-Law Tradition

Pierre Legrand

All reading materials can be downloaded from www.pierre-legrand.com/PUCPR.

Abstract

This course will offer Brazilian postgraduate law students an in-depth introduction to the work of the United States Supreme Court — one of the most influential legal agents in the world — with specific reference to the judicial protection of rights pursuant to United States law and to the United States Constitution. The course may include a sideways glance at the work of the Supreme Court of the United Kingdom. Classes will feature both background theoretical information and exemplary case-studies.

Note that the materials inscribed for Day 6 (*infra*) will be covered time permitting.

Day 1: Preliminaries and a First Case (on Physical Liberty)

Presentation of the course.

Why focus on SCOTUS.

A Word on Federalism, U.S. style.

A Further Word on the U.S. Constitution (including the Bill of Rights).

An in-depth examination of a U.S. Supreme Court decision on the interpretation of a statute purporting to infringe on the individual right to freedom to physical liberty (or freedom from incarceration).

Readings

McBoyle v. United States, 43 F.2d 273 (10th Cir. 1930).

McBoyle v. United States, 283 U.S. 25 (1931).

Days 2 & 3: Sexual and Marital Autonomy

An in-depth examination of three leading U.S. Supreme Court decisions on the interpretation of individual rights to sexual and marital autonomy. This investigation will specifically consider whether there is any normative role for foreign law to play in the protection of individual rights under U.S. constitutional law.

Readings

Bowers v. Harwick, 478 U.S. 186 (1986).

Lawrence v. Texas, 539 U.S. 558 (2003).

Obergefell v. Hodges, 576 U.S. ____ (2015).

Days 4 & 5: Firearm Ownership and Possession

An in-depth examination of the leading U.S. Supreme Court decision on the interpretation of an individual right to the ownership and possession of firearms. This investigation will specifically address the aftermath of the U.S. Supreme Court decision being examined over the eleven-year period from 2008 to 2019.

Readings

D.C. v. Heller, 554 U.S. 570 (2008).

Day 6: Sexual Orientation

An in-depth examination of a U.S. Supreme Court decision on the interpretation of the right to sexual orientation without discrimination. This investigation will also consider a contemporary decision of the Supreme Court of the United Kingdom bearing on analogous material facts.

Readings

Masterpiece Cakeshop v. Colorado Civil Rights Commission, 584 U.S. ____ (2018).

A Sideways Glance: Lee v. Ashers Baking, [2018] U.K.S.C. 49.