In *Obergefell v. Hodges* (2015), the Supreme Court said that the Constitution protects the “individual dignity and autonomy” of gays and lesbians who want to be married. What exactly is “individual autonomy,” and to what extent does the U.S. Constitution protect it? In this course we analyze the concept of autonomy legally, historically, and philosophically. We begin by describing how the concept of autonomy emerged in American culture as a potent legal and moral concept. We then survey how autonomy has been employed by the Supreme Court in free speech, religion, Due Process, and Equal Protection cases. We end the course with a moot court exercise designed to show tensions inherent within the concept of autonomy.

This course will be taught as a Clemson Thinks\textsuperscript{2} course. Clemson Thinks\textsuperscript{2} courses are intended to help students develop critical thinking skills that can be used across the curriculum. We will spend time learning about the elements of thought, intellectual standards, and intellectual traits that lead to good thinking. We will apply insights about critical thinking to the subject matter and we will reflect on our own thinking processes throughout the semester. In-class and out-of-class assignments will be designed to help students develop critical thinking skills, including identifying and summarizing arguments, analyzing and evaluating arguments, and developing arguments on the topics we study in class. Students will take a critical thinking pretest and posttest to measure critical thinking skills. When students leave the course, they will have significant artifacts (such as the pro-and-con paper and their Moot Court briefs/opinions) that can demonstrate their critical thinking abilities.

**Student Learning Outcomes:**

1. Students will identify and summarize arguments in course readings.
2. Students will identify assumptions of arguments.
3. Students will compare and contrast competing arguments.
4. Students will articulate arguments on both sides of an issue.
5. Students will analyze and evaluate arguments.
6. Student will develop well-reasoned arguments in response to arguments found in readings and articulate them clearly in course papers and/or the moot court exercise.
Required texts:

- Edward A. Purcell, Jr., *The Crisis of Democratic Theory: Scientific Naturalism and the Problem of Value* (1973)
- Additional readings will be available on Blackboard.

Assignments:

1. Take the California Critical Thinking Skills Test (CCTST) pretest (during first week of classes) and posttest (during last week of classes). You will not be graded on your performance on the test, but you will be graded on whether you complete it. Instructions about how to take the class will be announced in class.
2. Short paper 1: Identify five assumptions in a course reading. Discuss whether you think the assumptions are reasonable or not. Defend your views. Two pages or fewer.
3. Short paper 2: Compare and contrast opposing arguments given in a course reading. Two pages or fewer.
4. Arguing Pro and Con: Choose a topic that have studied that you have a strong opinion on. Write two pages defending your opinion and two pages defending the opposing position, but do not state which opinion is your own. Make each position as strong as it can be.
5. Short paper 3: Select a Supreme Court opinion (majority, concurrence, or dissent). Evaluate the strength, consistency, and relevance of the arguments presented in it. Does the justice make a compelling case for his or her view?
6. For the Moot Court exercise, develop arguments on one side of the case. Write a brief or an opinion defending your position. Further details will be announced in class.
7. In-class debates: Periodically throughout the course we will hold in-class debates. Students will be graded individually for their contributions.
8. In-class presentations: students will describe the course material, make an argument about it, and raise critical questions for class discussion.
9. Various in-class assignments to develop critical thinking.

In-Class Assignments:

Students will participate in many in-class assignments, including short writing assignments and debates. For the most part, in-class assignments will be given full credit if they are completed. Two in-class assignments will be dropped from each student’s final grade. If a student has an excused absence on the day of an in-class assignment, that student may make-up the in-class assignment by writing a 1-page,
single-spaced argumentative paper on a topic we discuss in class within one week of the absence. Students wishing to exercise this option should speak with me.

In-class writing assignments may include listing questions about the course readings; generating arguments for or against an idea and then discussing those arguments with other students; “SEE-I” exercises (explained in class); summarizing the main points of the discussion; quizzes on the course material; and so forth.

**Moot Court Exercise:**

Each student will participate in the Moot Court exercise either as an attorney or a justice. Attorneys will individually write a six-page brief arguing for their position and will present oral arguments in court. Justices will hear the arguments and individually write a ten-page decision for the case. Papers are due one week after the moot court exercise is complete. Details about the moot court topic and process will be announced in class.

**Debates:**

Each student is required to participate in debates. The dates for the debates are listed in the syllabus and the topics of and participants in the debates will be announced a few days prior to the debate.

On the day of the debate the participants will bring a one-page paper that lists four or more arguments that can be made in favor of or against the proposition to be debated (the papers will be submitted to me after the debate and will be included as part of your debate performance). The arguments need not be more than one or two sentences in length, but can be longer. Students will then be randomly assigned into two teams: one in favor of and one against the proposition. The teams will confer for a few minutes to discuss what each person will say in their opening statement. Each participant will then have two minutes to make arguments for their position. After that we will open the floor for further discussion. The “judges” (students who not on a side of the issue) will vote on which side made the best case for their position.

Debate participants are graded individually rather than as a team. All participants can receive full credit if they merit it.

**For-and-Against Paper:**

In this assignment students will choose a controversial topic we discuss in class and then write two pages in favor of and two pages against a position on that topic. Students should write as strongly as possible on both sides; ideally, readers will not be able to tell which part of the paper is the student’s real opinion. Using a rubric, students will grade each other’s papers in class and give feedback about the strength
of each side. I will also grade the paper, and only my grade will count towards the student’s final grade.

**In-Class Presentations:**

Each student will have the opportunity to give an in-class presentation. On the day that a student presents, the student will describe the reading for the day for about five minutes, and then raise critical questions that will serve as a basis for class discussion. Students should come with at least five thoughtful and critical questions that can stimulate class discussion.

**Criteria for All Written and Oral Work:**

All papers and written portions of exams will be graded on three criteria: 1) demonstration of mastery of course materials, 2) persuasive argumentation, and 3) clear and coherent writing.

1) Demonstration of mastery of course materials: To receive a high grade on a written assignment, a student’s paper must demonstrate awareness of the major positions and arguments regarding the issue. It must be clear to the reader that you have read and comprehended what is at stake in the controversy. The paper must also focus on the most important facts and issues and not get sidetracked with trivial or less-important matters. Doing this requires an exercise of judgment – you cannot include all facts and arguments, and so you must select those that you think are most important in describing and resolving the issue. Arguments in the paper must draw upon the student’s knowledge of course material.

2) Persuasive argumentation: argumentation is the currency of legal discourse. In any good student paper there must be a clear thesis that is defended with rigorous and persuasive justifications. Provide evidence, legal and otherwise, that supports your claim(s). You must present opposing positions clearly and charitably in their strongest form, but also show why they are insufficient or lacking. There must be no “straw-man” attacks on opposing positions.

3) Clear and coherent writing: connected to (2), the writing in your paper should clearly and cohesively work to prove your thesis. Your writing should be easy to follow, with one idea leading to another in a clear and coherent fashion. The selection of facts, issues, and arguments in the paper should clearly work to prove the thesis. The paper should be coherent in that all parts work to prove the thesis. There should be no disjointed points or arguments that do not connect with the main argument of the paper.
Attendance and Participation:

I welcome questions, concerns, rebuttals, requests for clarification, etc. A question or comment from a student demonstrates that that student cares enough about the material to think about its meaning and implications. Please participate!

Attendance will be recorded, but students will not be graded for attendance. In-class assignments, of course, are graded.

Grading:

The mid-term exam will count for 10% of the final grade; the final exam 10%; taking the CCTST pretest (2%) and posttest (3%); Moot Court paper 30%; Short papers 5% each; in-class assignments 5%; debates 5%; in-class presentations 10%; and the pro-and-con paper 10%. Final grades will be awarded as follows: A = 90-100, B = 80-89, C = 70-79, D = 60-69, F = 0-59.

Exams can be made-up only under exceptional circumstances. Late work will be assessed a 10% penalty for each day it is late.

Laptop Policy

As a general matter, laptops, tablets, and other electronic devices are not allowed in class. In my experience, too many students forgo the legitimate in-class uses of such devices and instead use them to check Facebook, news websites, or do other things that distract themselves and others from the class discussion. You are unlikely to learn much if your attention is focused on the internet.

If you feel that you must take notes on a laptop or other device, please submit a signed, hand-written note to me which reads: “I hereby promise that I will use my laptop (or other device) ONLY for note-taking purposes while I am in Professor Frost’s class. If I break this promise, I agree to be assessed a penalty or extra work at Professor Frost’s discretion.”

Please note that even if you do use a laptop to take notes, you must still bring paper to class in order to complete in-class assignments. These assignments must be handed in at the end of class.

Academic Integrity:

Clemson University’s official statement on academic integrity reads: “As members of the Clemson University community, we have inherited Thomas Green Clemson’s vision of this institution as a ‘high seminary of learning.’ Fundamental to this vision is a mutual commitment to truthfulness, honor, and responsibility, without which we
cannot earn the trust and respect of others. Furthermore, we recognize that academic dishonesty detracts from the value of a Clemson degree. Therefore, we shall not tolerate lying, cheating, or stealing in any form.”

If you are unsure about what constitutes plagiarism, please visit Clemson’s website on academic integrity: http://www.clemson.edu/academics/academic-integrity/index.html.

Students with Disabilities:

Students with disabilities who need accommodations should make an appointment with Dr. Arlene Stewart, Director of Disability Services, to discuss specific needs within the first month of classes. Students should present an Academic Accommodation Letter from Student Disability Services when they meet with instructors. Student Disability Services is located in Suite 239 Academic Success Building (656-6848; sds-l@clemson.edu). Please be aware that accommodations are not retroactive and the new Academic Accommodation Letters must be presented each semester. I am happy to provide accommodations that are in accordance with University regulations.

Non-Discrimination Policy:

Clemson University is committed to a policy of equal opportunity for all persons and does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender, pregnancy, national origin, age, disability, veteran’s status, genetic information or protected activity (e.g., opposition to prohibited discrimination or participation in any complaint process, etc.) in employment, educational programs and activities, admissions and financial aid. This includes a prohibition against sexual harassment and sexual violence as mandated by Title IX of the Education Amendments of 1972.

If the Professor is Late:

In the event that the professor is late to class, wait in class until ten minutes after the scheduled start time. If the professor does not appear within ten minutes, class is officially canceled for that day.

Tentative Reading Assignments and Class Schedule (subject to change, as announced in class):

Aug. 20 Intro: no readings

   TAKE THE CALIFORNIA CRITICAL THINKING SKILLS TEST (CCTST) WITHIN ONE WEEK
Aug. 25 Liberty and Critical Thinking I

J.S. Mill, *On Liberty*, chapter 1

*Critical Thinking*, pp. 2-5, 8-10

Aug. 27 Liberty and Critical Thinking II

Isaiah Berlin, “Two Concepts of Liberty”

*Critical Thinking*, pp. 14-15

Sept. 1 Intro to Autonomy


Tocqueville – *Democracy in America*, volume II, part 1, chapters 1 and 2.

James Madison, “Memorial and Remonstrance Against Religious Assessments”

Sept. 3 Naturalism and Morality

Purcell – *The Crisis of Democratic Theory*, pp. 15-46

Sept. 8 Challenged Foundations and Legal Realism and 1st SHORT PAPER DUE

Purcell – *The Crisis of Democratic Theory*, pp. 47-94

Sept. 10 The Language of Moral Incoherence and DEBATE 1


Alasdair MacIntyre, *After Virtue*, pp. 1-22

Sept. 15 Totalitarianism; Moral Truth Strikes Back

Purcell – *The Crisis of Democratic Theory*, pp. 117-158

Sept. 17 Turning Against Totalitarianism
Purcell – *The Crisis of Democratic Theory*, pp. 197-217

Richard Primus – *The American Language of Rights*, pp. 177-197

Sept. 22 The Relativist Theory of Democracy and 2nd SHORT PAPER DUE

Purcell – *The Crisis of Democratic Theory*, pp. 235-272

*West Virginia v. Barnette* (1943)

Sept. 24 Autonomy and Authenticity Today and DEBATE 2; REVIEW

Charles Taylor, *A Secular Age*, pp. 473-504

David Brooks, *Bobos in Paradise*, pp. 61-84

Sept. 29 MIDTERM

Oct. 1 John Rawls


Oct. 6 “Perfectionist” Critics of Autonomy


John Finnis – *Natural Law and Natural Rights*, cha. 4 (pp. 81-99)

Oct. 8 Oppression and Autonomy and DEBATE 3


Stanley Fish, “Boutique Multiculturalism”

Oct. 13 NO CLASS – FALL BREAK

Oct. 15 Survey of Anti-Totalitarian Legal Changes after World War II

David Ciepley, *Liberalism in the Shadow of Totalitarianism*, pp. 231-251

Michael Sandel, *Democracy's Discontent*, 55-90
Oct. 20 Free Speech I and DEBATE 4

*Police Dept. of Chicago v. Mosley* (1972)


Oct. 22 Free Speech II


Oct. 27 Freedom of Religion I and ARGUING PRO AND CON PAPER DUE

Robert Putnam and David Campbell, *American Grace*, pp. 91-133

*Everson v. Board* (1947)

*Wisconsin v. Yoder* (1972)

Oct. 29 Freedom of Religion II and DEBATE 5


Stephen Carter, *The Culture of Disbelief*, chapter 12

Nov. 3 Religion, Autonomy, and Tax-Exemption

*Bob Jones University v. United States* (1983)

Other readings TBA

Nov. 5 Privacy and SHORT PAPER 3 DUE (Extra credit opportunity: George Will lecture)


*Griswold v. Connecticut*

*Eisenstadt v. Baird*
Nov. 10 Sex Discrimination and DEBATE 6


Frontiero v. Richardson (1973)

Craig v. Boren (1976)

Nov. 12 Abortion and Gay Rights

Planned Parenthood v. Casey (1992)


Nov. 17 Same-Sex Marriage


Nov. 19 MOOT COURT

Nov. 24 The Limits of Autonomy

Stephen Smith, Getting Over Equality, chapter 2 (pp. 27-44)


Nov. 26 THANKSGIVING BREAK

Dec. 1 Take CCTST in-class; MOOT COURT PAPER DUE

Dec. 3 Review; make up

FINAL EXAM: Monday, Dec. 7, 3:00-5:30