

PSCI 244
VOTING, VOICE, AND VIRTUAL FREEDOM IN THE INTERNET AGE
FALL 2020
FINAL EXAM

Bring this sheet, blue books, and any books, notes, et cetera with you to class (still TBD) on THURSDAY November 19 at 10:15 AM. You will then have TWO HOURS to write out your answers to SEVEN of the TEN questions below. *Write in the claim-objection-rejoinder format. Define any technical legal terms, supply reasoning to support each claim, and use concrete, detailed evidence for each argument offered.*

Do your own work. Only those answers written out by you during the exam will be accepted for credit. Any two answers with the same or similar wording will be thrown out of each exam in which they appear.

1. Should the Voting Rights Act (VRA) be retired? Debate the case using the arguments of Justice Roberts and Ginsberg's opinions in *Shelby County v. Holder* and the Berman book. Be sure to define the key terms "racial gap" and "second generation" vote dilution in writing your answer.
2. In his dissent in *South Carolina v. Katzenbach*, Justice Black argues that the preclearance provisions (Section 5) of the VRA are unconstitutional because they treat states "as little more than conquered provinces" (360). Yet, as Justice Warren's opinion makes clear, that undignified treatment was precisely how southern election officials treated black Americans. Which Justice has the better understanding of the constitution and why?
3. Are majority minority districts a good solution to the problem of African-American vote dilution in cases of racial polarization? Use the debate over race-blind policies and evidence from Canon and Swain to structure your answer.
4. Who has the better understanding of the role of the First Amendment in American society in *Tinker*, Justice Fortas or Justice Black?
5. Did the Chicago Park District violate the *Clark* test in restricting the Occupy Movement's use of Grant Park? Use the facts of *City of Chicago v. Alexander* to argue the case.
6. Justice Scalia's majority opinion in *R.A.V. v. St. Paul* focused on the viewpoint discrimination explicit in the St. Paul ordinance which banned cross burning. Justice White's concurrence agreed the law was unconstitutional but emphasized the two-tier speech distinction and overbreadth. Write an essay assessing who has the better argument.
7. President Nugent has asked you whether IWU's policy on "Harassment and Intolerance" should be revised. Write a memo offering an answer that includes the strengths and weaknesses of the policy from the perspective of First Amendment jurisprudence.
8. Sunstein thinks the public forum doctrine supplies both an "analogy and an ideal" for how Americans should approach digital freedom. Write an essay explaining what the analogy and ideal are and debating whether they should be endorsed.
9. Should we follow an affirmative or negative view of the First Amendment in guiding regulation of the Internet? Use Nunziato's evidence on Internet Service Provider (ISP) blocking and filtering to debate this question.
10. In *#Republic* Sunstein argues that the fact of group polarization and the norm of consumer sovereignty in the modern media system require a corrective in an affirmative approach of the First Amendment. Explain the rationale behind the affirmative view and assess whether the Internet has become, empirically and normatively, a democratic dystopia.