Course description:

While the U. S. Constitution values “freedom of expression” and “due process of law,” concerns for national security and the preservation of internal order have led to legislation and executive actions on occasion that threaten or ignore these civil liberties. Court cases reviewing these conflicts have supported different values at different times for different reasons. This course will examine how the American legal system has dealt with political dissent and protest from the 1790s through the 1960s. The focus will be on the First Amendment during times when national security and internal order appear to be threatened.

Readings and class discussions will deal with controversies arising from the Alien and Sedition Acts; opposition to the Civil War, World War I, World War II, and Vietnam War; the “Red Scare” and McCarthy Era; and the Civil Rights movement. We’ll watch and discuss documentaries such as “Berkely in the ‘60s” which was nominated for an Oscar in 1991 and “Brother Outsider” about Bayard Rustin and his work on the civil rights movement, and bring in speakers with experience from different protest movements.

I’ll draw on my experiences as a student activist in the 1960s as well as my 21 years of active legal practice, 12 years as mayor, and 5 years as head of a national advocacy group, to supplement the cases, readings, documentaries, speakers and participatory activities to help the class better understand how this history and the legal and policy debates are still relevant today.

Course goals: By the end of this course, students will be able to understand and explain the continuing conflict between the civil liberties outlined in the U. S. Constitution, particularly those protected by the First Amendment, and real/perceived threats to the survival/security of the nation. More importantly, they will be able to evaluate the successes and failures of the past, and analyze the role played by the U. S. Supreme Court in striking a balance between these competing values in American history.