

FREE SPEECH: TAKE-HOME TEST

You have to answer **ALL** questions. Each question is worth 12.5% of the test grade. This take-home test evaluates your ability to apply the theories, methods, and principles that we discussed in class. Clarity and precision are essential. Please follow the required format. Make sure that you **precede every argument or idea by its corresponding heading**. In all your answers, you must refer only to sources (topics, theories, elements, examples, readings, cases, etc.) that we discussed in class. Unless otherwise instructed, **no outside sources may be referred to or included in your answers**. You are not permitted to consult with anyone about this test. Please do not ask me questions about the test once this test is posted online. As a matter of fairness, I do not want to give answers to some students that others do not have the benefit (or detriment) of hearing. You will simply have to use your own judgment about how to handle any possible difficulties, including the interpretation of the questions and tasks. **Submission:** You need to submit this evaluation to the Algoma University Moodle platform for this course by the deadline, i.e., **October 24, 2022 by 10 pm EST**. We will not meet in class on Oct. 17 so that you can work on this test.

Format and organization of your answers

Scenarios (cases)

Break down the case according to the claims and use a heading for each claim. The heading should be the main idea in the claim. Each claim should in turn be divided into sections. There should be a section for each argument, point, or idea. Each section should include only one idea, major point, or argument. It should be preceded by a subheading, which must synthesize that idea, point, or argument. And it must contain a topic sentence. The rest of the section must provide examples, explanations, and evidence to prove the topic sentence. Always address the opposing arguments that others could have about your own arguments.

Short essay questions

Purpose

The purpose of your essay is to state and prove your thesis. In general, this is the answer to the question or task from the test, e.g., explain and illustrate a quote, analyze a text, etc.

Introduction

The introduction acquaints the reader with the topic. You will need to resume in your own words the quote or text you need to explain and analyze and place it into a larger context. The introduction should be short, simple, and clear. The most important aspect of your introduction is your thesis. You also need to place your thesis into some larger context.

Thesis development.

You need to divide your short essay into sections. Each section should include only one idea, major point, or argument. Generally speaking, each section should have only one paragraph. The section must be preceded by a heading, which must capture the main idea of the section. Also, each paragraph must contain a topic sentence, which must be similar to the heading. The rest of the section must provide examples, explanations, and evidence to prove the topic sentence.

Please address the opposing arguments that others could have about your own arguments.

Conclusion

The purpose of the conclusion is to bring the essay to a satisfying close. You should avoid bringing up a new point in your conclusion. You should avoid a lengthy and excessive summary. Simply, summarize your thesis and main arguments. The most successful conclusions are thoughtful and reflective. Go back to the context. After having presented your topic and proven your thesis, you want to be able to make an overarching statement based on that information. Just as the introduction sought to place the essay in the larger context about the topic, so should the conclusion insist on returning the reader to that ongoing conversation.

Citation Format

The *Chicago Manual of Style* (author-date) or the **Canadian Guide to Uniform Legal Citation (aka The McGill Guide)**.

Example of format and organization

Please have a look at Tetley's article on Mixed Jurisdictions Part 2, widely available online, for an example of the required format.

1. Analyze the following scenario

During the Covid-19 pandemic, Dark City in the United States adopted an ordinance prohibiting “speech or symbols that arouse anger in, deride or insult another on the basis of Covid-19 vaccination status.” The City has charged a member of the Pro-Vax Society under that ordinance for displaying an emblem above the entrance to its headquarters. The City alleges that the emblem is derisive and insulting because the motto on the emblem proclaims that “Anti-Vaxxers kill.”

2. Analyze the following scenario

Pierre P., a Canadian citizen, came back to Montreal from Paris during the pandemic in 2021. He was informed that he had to quarantine for 14 days because he had failed to upload his vaccine status to ArriveCan. ArriveCan is an app operated by the Government of Canada, which all travelers entering Canada had to use in order to provide mandatory travel information, including their COVID-19 proof of vaccination and quarantine details, before entering Canada. Furious, Pierre P. burned his Canadian passport to protest against the obligation to use ArriveCan. He was arrested under a criminal law prohibiting the willful and knowing destruction of a Canadian passport. The state contends that passports are an efficient and effective means of verifying the identity of Canadian citizens.

3. Analyze the following scenario

The administration of State University in the US adopted a policy that established a free speech zone for students. The site is a small classroom with no windows. The policy established the following conditions for access to the free speech zone. First, to facilitate the orderly use of the facility and universal access to the amplification system, each speaker must adhere to a ten-minute rule in which to make comments at the microphone if other speakers are waiting, but speakers are not limited in the number of times they can speak so long as they wait for additional turns at the

microphone. Second, speakers must avoid any speech that is obscene. The policy defines obscenity as “any speech that is sexually explicit.” Third, in order to protect public health, no student who has flu-like symptoms, including Covid-19 symptoms, may access the free speech site.

4. Analyze the following scenario



During the pandemic, and following a directive from the Ontario Provincial government, Universities across Ontario adopted a Covid-19 mandatory screening policy which required all faculty, students, and staff to screen daily. Access to campus was granted only if they passed this screening. This meant answering questions such as “Have you travelled outside Canada in the last 14 days?” Has anyone who lives with you been outside Canada in the last 14 days? Do you have fever or shortness of breath? Are you fully vaccinated?

5. Analyze the following scenario

In Canada, John Doe posted several disgusting, discriminatory, and offensive messages about Martians and Neptunians referring to them with slurs such as ‘criminals’ ‘abusers’ or ‘thugs’ on a public online forum. No Martians or Neptunians ever accessed the forum. Assume that Martians and Neptunians are among the protected groups in Canadian Criminal Law.

6. Explain the following quote by Thomas I. Emerson’s 1962-1963 article entitled Toward a General Theory of the First Amendment. Illustrate your explanation with, at least, two examples, and critically analyze the quote.

The essence of a system of freedom of expression lies in the distinction between expression and

action. The whole theory rests upon the general proposition that expression must be free and unrestrained, that the state may not seek to achieve other social objectives through control of expression, and that the attainment of such objectives can and must be secured through regulation of action. The dynamics of the system require that this line be carefully drawn and strictly adhered to.

7. Explain the following quote by John Stuart Mill's 1859 book entitled *On Liberty*. Illustrate your explanation with, at least, two examples, and critically analyze the quote.

Let us suppose, therefore, that the government is entirely at one with the people, and never thinks of exerting any power of coercion unless in agreement with what it conceives to be their voice. But I deny the right of the people to exercise such coercion, either by themselves or by their government. The power itself is illegitimate. The best government has no more title to it than the worst. It is as noxious, or more noxious, when exerted in accordance with public opinion, than when in or opposition to it. If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

8. Critically analyze Jacinda Ardern's 2022 UN General Assembly speech quoted below.

The face of war has changed. And with that, the weapons used. The tools used to challenge the statehood of others are hidden and more complex. Traditional combat, espionage and the threat

of nuclear weapons are now accompanied by cyber-attacks, prolific disinformation and manipulation of whole communities and societies. [...] What if that lie, told repeatedly, and across many platforms, prompts, inspires, or motivates others to take up arms? To threaten the security of others. To turn a blind eye to atrocities, or worse, to become complicit in them. What then? This is no longer a hypothetical. The weapons of war have changed, they are upon us and require the same level of action and activity that we put into the weapons of old. We recognised the threats that the old weapons created. We came together as communities to minimise these threats. We created international rules, norms and expectations. We never saw that as a threat to our individual liberties - rather, it was a preservation of them. The same must apply now as we take on these new challenges. [...] And surely we can start with violent extremism and terrorist content online. [...] The weapons may be different but the goals of those who perpetuate them are often the same. To cause chaos and reduce the ability of others to defend themselves. To disband communities. To collapse the collective strength of countries who work together. But we have an opportunity here to ensure that these particular weapons of war do not become an established part of warfare.