

POLI 216: Constitutional Democracy

Fall 2006

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Office Hours: Monday 11:00am-Noon; Thursday 2pm-3pm

Course Overview

Most human societies appear to have some form of “government.” What is it about human nature and human society that gives rise to the need for organized political power? What explanations are there for how governments are established? What makes a government legitimate? After wrestling with these fundamental questions through an examination of central text in the Western philosophical tradition and contemporary social science research, we will turn to examining a particularly important type of government that attempts to balance the need for effective political power with protection of individual rights: Constitutional Democracy. Questions that we will discuss include: What is a constitution? What is the purpose of a constitution? What are the effects of alternative constitutional arrangements? How did constitutional government first emerge? Under what circumstances will a constitution be stable and effective? How are constitutions maintained, and how do they change? While we will focus on the US Constitution as it has developed from 1789 to the present in thinking about these questions, we will also consider the experiences of other countries where appropriate. By the end of the course, you will have developed a deeper understanding of, and be able to think critically about, the nature and the problems of constitutional government and the institutions that sustain it.

Readings

The readings for this class consist of primary philosophical texts and contemporary social science research. You can purchase a reading packet through the UNC Bookstore. Most readings are also available in electronic format through the website for this class. The remaining few readings are available at the library.

GRADES AND EVALUATION

There are three components to your grade:

Midterm and Final Exam (50 percent of your course grade): The midterm exam will count for 20 percent of your course grade. The final exam will be cumulative and will count for 30 percent of your grade. Exams are essay based.

Two Paper Assignments (40 percent of your course grade): Over the course of the semester, you must write two discussion papers (approximately 4 pages in length) in which you will compare, contrast, and evaluate several readings. You do not need to do any additional outside research for these papers – the point is for you to practice presenting an argument in a clear and concise manner, based on the readings, lectures, and class discussions. Each paper will be based on a question that I will provide. I will provide a question five times during the semester (The weeks are indicated on the syllabus). You may choose any two questions to write on, but I strongly urge you not to put off writing papers until the end of the semester. All papers must be turned in at the beginning of class on the day they are due and late papers will not be accepted. Papers should not exceed four pages, double-spaced, with reasonable margins and 12pt font.

Class Participation (10 percent of your course grade): While I will lecture for some time during each class period, there will be lots of opportunity for open discussion/debate and questions. Good preparation on your part is therefore essential. You should do all assigned reading carefully before class and come ready to participate in discussion.

Course grades will be determined according to the following grading scale:

A: 93-100 A-: 90-92 B+: 88-89 B: 83-87
B-: 80-82 C+: 78-79 C: 73-77 C-: 70-72
D+: 68-69 D: 63-67 D-: 60-62 F: 0-59

ACADEMIC DISHONESTY:

Students and faculty at UNC are governed by the Honor Code, and academic dishonesty will not be tolerated. Any student who is caught attempting to represent someone else's work as their own or to cheat in any other manner will be subject to university discipline under the Honor Code. If you have any questions regarding this policy, you can refer to the University Code of Conduct [by clicking here](#).

STUDENTS WITH CHALLENGES

Students with challenges who require individualized testing or other accommodations should identify themselves and express their needs during the first week of the semester. Where the challenge is not immediately apparent, verification will be required.

(TENTATIVE) SEMESTER SCHEDULE

WEEK 1 (8/24 and 8/26): Introduction

WEEK 2 (8/31 and 9/2 - no class on 9/2): Hobbes

1. •Thomas Hobbes (1651): Excerpts from Leviathan

WEEK 3 (9/7 and 9/9 - no class on 9/9): Locke and Jefferson

1. •John Locke (1690): Excerpts from The Second Treatise of Civil Government
2. •Thomas Jefferson et al. (1776): Declaration of Independence

WEEK 4 (9/14 and 9/16): Hume

1. •David Hume (1739): Excerpts from A Treatise of Human Nature
2. •David Hume (1777): Of the Origin of Government

WEEK 5 (9/21 and 9/23): Hayek

1. •Friedrich Hayek (1960): “The American Contribution: Constitutionalism.” Chapter 12 of The Constitution of Liberty. Chicago: University of Chicago Press. **READ ONLY SECTIONS 1-5**
2. •Chief Justice John Marshall (1803): Excerpt from Marbury v. Madison

WEEK 6 (9/28 and 9/30): Buchanan and Tullock

1. •James Buchanan and Gordon Tullock (1962). “A Generalized Theory of Constitutions.” Chapter 6 of The Calculus of Consent. Ann Arbor: University of Michigan Press.

WEEK 7 (10/5 and 10/7): Hardin

1. •Russel Hardin (1989).” Why a Constitution?” in Bernard Grofman and D. Wittman (eds.) The Federalist Papers and the New Institutionalism. New York: Agathon Press.

WEEK 8 (10/12 and 10/14 - no class on 10/12 (University Day)):

1. • Midterm Exam on Thursday, 10/14

WEEK 9 (10/19 and 10/21 - no class on 10/21 (Fall Break)): Olson

1. •Mancur Olson (1993). “Democracy, Dictatorship, and Development.” American Political Science Review 87: 567-576.

WEEK 10 (10/26 and 10/28): North and Weingast

1. •[Douglass North and Barry Weingast. 1989. “Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England.” Journal of Economic History 49: 803-32.](#)

WEEK 11 (11/2 and 11/4): Weingast

1. •Barry Weingast (1997). “The Political Foundations of Democracy and the Rule of Law.” American Political Science Review 91: 245-263
2. •Gordon Tullock. “The Edge of the Jungle.”

WEEK 12 (11/9 and 11/11): Gordon

1. •Scott Gordon (1999): “American Constitutionalism.” Chapter 8 from Controlling the State: Constitutionalism from Ancient Athens to Today. Cambridge: Harvard University Press.
2. •The US Constitution
3. •James Madison, Vices of the Political System of the United States
4. •Patrick Henry, Speeches in Virginia Ratifying Convention
5. •Federalist #10

6. •Federalist #48
7. •Brutus I

WEEK 13 (11/16 and 11/18): The Federalist-Anti-Federalist Debates

1. •Federalist #51
2. •Centinel I
3. •Federalist #55
4. •Federalist #56
5. •Melancton Smith, Speech in New York Ratifying Convention
6. •Federalist #78
7. •Brutus XV

WEEK 14 (11/23 and 11/25 - no class on 11/25 (Thanksgiving)): Enforcement and Change

1. •US Constitution, Article V
2. •Joseph Story (1833). Excerpts from Commentaries on the Constitution
3. •Sanford Levinson (2001): "Designing an Amendment Process." in Constitutional Cultural and Democratic Rule. Ferejohn, Rakove, and Riley (eds.) Cambridge: Cambridge University Press.

WEEK 15 (11/30 and 12/2 - no class on 12/2): Enforcement and Change

1. •US Constitution, Amendment V and Amendment XIV
2. •US Supreme Court Opinion and dissents in *Adkins v. Children's Hospital*
3. •US Supreme Court Opinion and dissents in *West Coast Hotel v. Parrish*
4. •Georg Vanberg (2011). "Substance vs. Procedure: Constitutional Enforcement and Constitutional Choice." *Journal of Economic Behavior and Organization*.

WEEK 16 (12/7): Review

FINAL EXAM THURSDAY DECEMBER 16 AT NOON