

POLS 5330.001: Comparative Constitutionalism

Meeting Time: Thursdays 6:00-8:45pm

Classroom: CAS 257

Instructor: Dr. Joseph Clarkson

Office: CAS 131A

Office Hours: Tuesdays 2:00pm-5:00pm (and by appt.)

Email: jclarkson@uttyler.edu

- I only reply to emails from official UT Tyler email accounts
- In your initial email, please note your enrollment in POLS 5330
- Expect a reply within 12 hours M-F (longer on weekends)

Course Description & Goals

What is a constitution? What are constitutions meant to be and do? What types of constitution have countries adopted around the world? Does a constitution have to be written to count as a constitution, or can bodies of unwritten rules have constitutional force? Why do authoritarian states sometimes adopt constitutions? What are the major trends in constitutional design? And what are the major tradeoffs involved in choosing one design over another? This course examines these and related questions to introduce students to the study of comparative constitutionalism. Comparative constitutionalism is a relatively new but vibrant field in political science and law. It studies the fundamental laws by which most modern states constitute themselves. In this course, we will begin with definitions before moving to specific topics such as constitution-making, constitutional amendment procedures, war powers, emergency powers, the separation of powers, federalism, judicial review, presidentialism and parliamentarism, definitions of citizenship, positive and negative rights, illiberal constitutionalism, and interactions between international politics and national constitutions.

By the end of the course, students will be able to:

- Define constitutionalism and identify the main types of constitution adopted by countries around the world
- Recount the major trends in the spread of constitutions in the twentieth and twenty-first centuries
- Evaluate the tradeoffs involved in different kinds of constitutional design
- Design an original research project in comparative constitutionalism
- Explain their original research to colleagues using conference-style presentations
- Understand the value of the peer review process for improving one's research
- Lead students in seminar-style discussions

Books & Other Materials

All readings will be available as PDFs through the course website on Canvas.

Requirements & Grading

The following grading scale will be used:

A=100%-90%, B=89%-80%, C=79%-70%, D=69%-60%, and F=59% and below.

Assignments will be weighed as follows:

Assignment	Percentage
Leading Discussion	20%
Paper Proposal	5%
Oral Presentation of the Proposal	10%
Discussant Remarks	15%
Expanded Paper	20%
Attendance & Participation	30%
Total:	100%

Assignment Descriptions

Leading Discussion 20%

In the first half of the semester, each student will serve once as discussion leader for a set of readings. To prepare, you will want to read each of the assigned readings carefully, preparing discussion questions for each specific article/book chapter as well as some broader questions comparing the readings or relating them to broader themes of the course. Discussion leaders will be evaluated on their preparation, the thoughtfulness of their questions, and their ability to facilitate a lively discussion without dominating it. (To help discussion leaders facilitate a lively conversation, everyone should come to class with a few comments and questions prepared for each of the assigned readings.)

Paper Proposal 5%

In the second half of the semester, each student will write a paper proposal (8-10 pages) on a topic of his or her choice. You should circulate your paper proposals at least one week prior to your oral presentation date. The proposal should identify an empirical or theoretical puzzle in comparative constitutionalism, articulate a novel argument about it, and briefly review the state of the literature on the topic to show how the paper's argument will differ from existing work on the subject. The proposal is meant to be exploratory, so it is worth only 5% of the total course grade. This is meant to give you the freedom to play with ideas, eliciting feedback from the class and the instructor which can be used to develop the expanded research paper later in the semester. More details on the submission process and a sign-up sheet will be circulated in the first week of class.

Oral Presentation of the Proposal 10%

A week after circulating the paper proposal, each student will present his or her project to the class through a short oral presentation (10-15 minutes). The presentation should restate the main argument and findings of the proposal, but it should focus primarily on plans to expand the proposal into a full research paper. Accordingly, it should say something about potential cases or other empirical evidence that the expanded paper might incorporate.

Discussant Remarks 15%

Throughout the semester, each student will serve as a discussant for another student's paper proposal. After the presenter has explained his or her project, the discussant will reply with oral

remarks on the paper proposal. The remarks should give constructive criticism and suggestions for ways to move forward with the project. This may involve suggesting ways to hone the puzzle, things to include in the literature review, comments on case selection, and so forth. Aim for remarks to take no more than 15 minutes.

Expanded Paper 20%

After receiving remarks from a discussant and the instructor, each student will expand his or her paper proposal into an original research paper (16-20 pages). The paper should address questions and issues raised by the discussant and incorporate any other feedback from the professor or peers, as appropriate. It should also include an empirical section that explains the selection of cases and/or data and sketches the broad contours of each case/the expected results. More details on expectations for the expanded paper will be circulated during the first half of the semester.

Attendance & Participation 30%

Because this is a graduate level seminar, students are expected not only to attend class on a regular basis but also to participate actively in class discussions. To succeed in this class, you will need to come having done the readings beforehand and having prepared a few questions and comments on them. As a general rule, aim to make at least two thoughtful comments on each article, book chapter, or paper proposal assigned for a given day.

If a student has no choice but to miss a class due to an extenuating circumstance, the student will need to contact the professor as soon as possible to explain the reason for the absence. Absences must be considered an approved absence per UT Tyler guidelines (see the section “University Policies” below). Each unexcused absence will result in a 20% reduction in the student’s participation grade. No student who misses more than 25% of the class will receive a passing score.

Course Policies

Late and Missing Assignments

Assignments are expected to be turned in on time. If a student is scheduled to lead discussion, circulate a paper proposal, make an oral presentation, or give discussant comments and an unforeseen circumstance arises, please contact me as soon as possible to reschedule. If there are no intervening circumstances and a student fails to turn in an assignment, a ten point deduction will be applied per day.

Artificial Intelligence Statement

UT Tyler is committed to exploring and using artificial intelligence (AI) tools as appropriate for the discipline and task undertaken. We encourage discussing AI tools’ ethical, societal, philosophical, and disciplinary implications. All uses of AI should be acknowledged as this aligns with our commitment to honor and integrity, as noted in UT Tyler’s Honor Code. Faculty and students must not use protected information, data, or copyrighted materials when using any AI tool. Additionally, users should be aware that AI tools rely on predictive models to generate content that may appear correct but is sometimes shown to be incomplete, inaccurate, taken without attribution from other sources, and/or biased. Consequently, an AI tool should not be considered a substitute for traditional approaches to research. You are ultimately responsible for the quality and content of the information you submit. Misusing AI tools that violate the guidelines

specified for this course is considered a breach of academic integrity. The student will be subject to disciplinary actions as outlined in UT Tyler's Academic Integrity Policy.

I expect all work students submit for this course to be their own. I have carefully designed all assignments to support your learning. Doing your own work, without human or artificial intelligence assistance, is best for your efforts in mastering course learning objectives. For this course, I expressly forbid using ChatGPT or any other artificial intelligence (AI) tools for any stages of the work process, including brainstorming. Deviations from these guidelines will be considered a violation of UT Tyler's Honor Code and academic honesty values.

University Policies

FERPA

UT Tyler follows the Family Educational Rights and Privacy Act (FERPA) as noted in [UT Tyler's Policy 7.01: Family Educational Rights and Privacy Act](#). The course instructor will follow all requirements to protect your confidential information.

Honor Code and Academic Misconduct

The UT Tyler community comes together to pledge the following: "I embrace honor and integrity. Therefore, I choose not to lie, cheat, or steal, nor to accept the actions of those who do." Accordingly, we enforce the [Student Conduct and Discipline](#) policy in the Student Manual of Operating Procedures (Section 8).

Absences for Official University Events and Activities

This course follows the practices related to [Excused Absences for University Events or Activities](#) as noted in the Catalog.

Absences for Religious Holidays

This course follows the practices related to [Excused Absences for Religious Holy Days](#) as noted in the Catalog.

Absences for Pregnant Students

This course follows the requirements of Texas Laws SB 412, SB 459, SB 597/HB 1361 to meet the needs of pregnant and parenting students. Part of the supports afforded pregnant students includes excused absences. Faculty who are informed by a student of needing this support should make a referral to the Parenting Student Liaison. NOTE: Students must work with the Parenting Student Liaison in order to receive these supports. Students should reach out to the Parenting Student Liaison at parents@uttyler.edu and also complete the [Pregnant and Parenting Self-Reporting Form](#).

Withdrawing from Class

Students may [withdraw](#) (drop) from this course using the [Withdrawal Portal](#). Withdrawing (dropping) this course can impact your Financial Aid, Scholarships, Veteran Benefits, Exemptions, Waivers, International Student Status, housing, and degree progress. Please speak with your instructors, consider your options, speak with your advisor, and visit the One-Stop Service Center (STE 230) or email enroll@uttyler.edu to get a complete review of your student account and the

possible impacts to withdrawing. We want you to make an informed decision. UT Tyler faculty and staff are here for you and often can provide additional support options or assistance. Make sure to carefully read [the implications for withdrawing from a course](#) and the instructions on using the [Withdrawal portal](#).

Texas law prohibits students from dropping more than six courses during their entire undergraduate career*. The six courses dropped includes those from other 2-year or 4-year Texas public colleges and universities. Consider the impact withdrawing from this class has on your academic progress and other areas, such as financial implications. We encourage you to consult your advisor(s) and Enrollment Services for additional guidance. CAUTION #1: Withdrawing before census day does not mean you get a full refund. Please see the [Tuition and Fee Refund Schedule](#). CAUTION #2: All international students must check with the [Office of International Programs](#) before withdrawing. All international students are required to enroll full-time for fall and spring terms. CAUTION #3: All UT Tyler Athletes must check with the Athletic Academic Coordinator before withdrawing from a course. CAUTION #4: All veterans or military-affiliated students should consult with [Military and Veterans Affairs](#).

* Students who began college for the first time before 2007 are exempt from this law.

Final Exam Policy

Final examinations are administered as scheduled. If unusual circumstances require that special arrangements be made for an individual student or class, the Dean of the appropriate college, after consultation with the faculty member involved, may authorize an exception to the schedule. Faculty members must maintain student final examination papers for a minimum of three months following the examination date. The final exam schedule for Fall 2026 can be found here: <https://www.uttyler.edu/academics/academic-calendar-26-27/final-exam-schedule.php>

Incomplete Grade Policy

If a student, because of extenuating circumstances, is unable to complete all of the requirements for a course by the end of the semester, then the instructor may recommend an Incomplete (I) for the course. The "I" may be assigned in place of a grade only when all of the following conditions are met: (a) the student has been making satisfactory progress in the course; (b) the student is unable to complete all coursework or final exam due to unusual circumstances that are beyond personal control and are acceptable to the instructor, and (c) the student presents these reasons before the time that the final grade roster is due. The semester credit hours for an Incomplete will not be used to calculate the grade point average.

The student and the instructor must submit an Incomplete Form detailing the work required and the time by which the work must be completed to their respective department chair or college dean for approval. The time limit established must not exceed one year. Should the student fail to meet all of the work for the course within the time limit, then the instructor may assign zeros to the unfinished work, compute the course average for the student, and assign the appropriate grade. If a grade has yet to be assigned within one year, then the Incomplete will be changed to an F, or NC. If the course was initially taken under the CR/NC grading basis, this may adversely affect the student's academic standing.

Grade Appeal Policy

Disputes regarding grades must be initiated within sixty (60) days from the date of receiving the final course grade by filing a Grade Appeal Form with the instructor who assigned the grade. A grade appeal should be used when the student thinks the final course grade awarded does not reflect the grades earned on assessments or follow the grading scale as documented in the syllabus. The student should provide the rationale for the grade appeal and attach supporting document about the grades earned. The form should be sent via email to the faculty member who assigned the grade. The faculty member reviews the rationale and supporting documentation and completes the instruction section of the form. The instructor should return the form to the student, even if a grade change is made at this level. If the student is not satisfied with the decision, the student may appeal in writing to the Chairperson of the department from which the grade was issued. In situations where there is an allegation of capricious grading, discrimination, or unlawful actions, appeals may go beyond the Chairperson to the Dean or the Dean's designee of the college from which the grade was issued, with that decision being final. The Grade Appeal form is found in the [Registrar's Form Library](#).

NOTE: The Grade Appeal Form is different from the Application for Appeal form submitted to the Student Appeals Committee, which does not rule on grade disputes as described in this policy.

Grade Replacement and Census Date Policies

Students repeating a course for grade forgiveness (grade replacement) must file a Grade Replacement Contract with the Enrollment Services Center (ADM 230) on or before the Census Date of the semester in which the course will be repeated. Grade Replacement Contracts are available in the Enrollment Services Center or at: <http://www.uttyler.edu/registrar>. Each semester's Census Date can be found on this syllabus, the Contract itself, on the Academic Calendar, or in the information pamphlets published each semester by the Office of the Registrar.

Failure to file a Grade Replacement Contract will result in both the original and repeated grade being used to calculate your overall grade point average. Undergraduates are eligible to exercise grade replacement for only three course repeats during their career at UT Tyler; graduates are eligible for two grade replacements. Full policy details are printed on each Grade Replacement Contract. The Census Date is the deadline for many forms and enrollment actions of which students need to be aware. These include:

- Submitting Grade Replacement Contracts, Transient Forms, requests to withhold directory information, approvals for taking courses as Audit, Pass/Fail or Credit/No Credit.
- Receiving 100% refunds for partial withdrawals. (There is no refund for these after the Census Date)
- Schedule adjustments (section changes, adding a new class, dropping without a "W" grade)
- Being reinstated or re-enrolled in classes after being dropped for non-payment
- Completing the process for tuition exemptions or waivers through Financial Aid.

The Census Date for this semester is Tuesday, September 8th.

Disability/Accessibility Services

In accordance with Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA), the University of Texas at Tyler offers accommodations to students with learning, physical, and/or psychological disabilities. If you have

a disability, including a non-visible diagnosis such as a learning disorder, chronic illness, TBI, PTSD, ADHD, or a history of modifications or accommodations in a previous educational environment, you are encouraged to visit [UT Tyler accessible learning](#) and fill out the New Student application. The Student Accessibility and Resources (SAR) office will contact you when your application has been submitted and an appointment with the Assistant Director Student Accessibility and Resources/ADA Coordinator. For more information, including filling out an application for services, please visit [the SAR webpage](#), the SAR office located in the Robert Muntz Library, LIB 460, email saroffice@uttyler.edu, or call 903.566.7079.

Military and Veterans

UT Tyler honors the service and sacrifices of our military-affiliated and veterans students. If you are a student who is a veteran, on active duty, in the reserves or National Guard, or a military spouse or dependent, please stay in contact with your faculty member if any aspect of your present or prior service or family situation makes it difficult for you to fulfill the requirements of a course or creates disruption in your academic progress. It is important to make your faculty member aware of any complications as far in advance as possible. Your faculty member is willing to work with you and, if needed, put you in contact with university staff who are trained to assist you. [The Military and Veterans Affairs](#) has campus resources for military-affiliated students. The MVSC can be reached at MVSC@uttyler.edu or via phone at 903.565.5972.

Students on an F-1 Visa

To remain in compliance with Federal Regulations requirements you must do the following:

- Traditional face-to-face classes: Attend classes on the regular meeting days/times.
- Hybrid Classes: Attend all face-to-face classes convened by the instructor according to the schedule set for your specific course.
- Online course: Only one online course can count toward your full-time enrollment. Students are expected to be fully engaged and meet all requirements for the online course.

Campus Carry

We respect the right and privacy of students who are duly licensed to carry concealed weapons in this class. License holders are expected to behave responsibly and keep a handgun secure and concealed. More information is available at [UT Tyler Campus Concealed Carry Policy webpage](#).

Course Schedule

Aug. 27: Week One—Constitutions and Constitutionalism

Readings:

- Billias, George Athan. 2009. *American Constitutionalism Heard Round the World, 1776-1989: A Global Perspective*. New York University Press: 3-51.
- Loughlin, Martin. 2022. "What Is Constitutionalism?" In *Against Constitutionalism*. Harvard University Press: 1-24.
- Jones, Brian and Edward Willis. 2026. "Unwritten Constitutionalism: A Vital Counterpoint." SSRN Scholarly Paper No. 6924402. Social Science Research Network: 1-25.
- Grimm, Dieter. 2012. "Types of Constitutions." In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 98-132.
- Jackson, Vicki C. 2012. "Comparative Constitutional Law: Methodologies." In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 54–74.

Suggested Readings:

- McIlwain, Charles Howard. 1940. *Constitutionalism: Ancient and Modern*. Cornell University Press.
- Ackerman, Bruce. 1997. "The Rise of World Constitutionalism." *Virginia Law Review* 83 (4): 771–97.
- Zumbansen, Peer. 2012. "Carving Out Typologies and Accounting for Differences Across Systems: Towards a Methodology of Transnational Constitutionalism." In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 75-97.
- Grimm, Dieter. 2016. "The Concept of Constitution in Historical Perspective." In *Constitutionalism: Past, Present, and Future*. Oxford University Press: 89-124.
- McLean, Janet. 2016. "The Unwritten Political Constitution and Its Enemies." *International Journal of Constitutional Law* 14 (1): 119–36.
- Kavanagh, Aileen. 2023. "The Ubiquity of Unwritten Constitutionalism." *International Journal of Constitutional Law* 21 (4): 968–75.
- Voermans, Wim. 2023. *The Story of Constitutions: Discovering the We in Us*. Cambridge University Press.
- Tushnet, Mark, and Bojan Bugarič. 2026. *Constitutionalism and Its Discontents*. University of Chicago Press.

Sep. 3: Week Two—No Class

- Professor Clarkson will be presenting at APSA in Boston

Sep. 10: Week Three—Constitution-Making

Readings:

- Elster, Jon. 1995. "Forces and Mechanisms in the Constitution-Making Process." *Duke Law Journal* 45 (2): 364–96.
- Klein, Claude, and András Sajó. 2012. "Constitution-Making: Process and Substance." In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 419–441.
- Negretto, Gabriel L., and Mariano Sánchez-Talanquer. 2021. "Constitutional Origins and Liberal Democracy: A Global Analysis, 1900–2015." *American Political Science Review* 115 (2): 522–36.
- Lanni, Adriaan, and Adrian Vermeule. 2012. "Constitutional Design in the Ancient World." *Stanford Law Review* 64 (4): 907–49.
- Couso, Javier. 2019. "The Possibilities and Limits of a Constitution-Making Transnational Legal Order: The Case of Chile." In *Constitution-Making and Transnational Legal Order*, edited by Gregory Shaffer, Terence C. Halliday, and Tom Ginsburg. Cambridge University Press: 265–282.

Suggested Readings:

- Arato, Andrew. 2009. "Redeeming the Still Redeemable: Post Sovereign Constitution Making." *International Journal of Politics, Culture, and Society* 22 (4): 427–43.
- Ginsburg, Tom, Zachary Elkins, and Justin Blount. 2009. "Does the Process of Constitution-Making Matter?" *Annual Review of Law and Social Science* 5: 201–23.
- Landau, David. 2012. "Constitution-Making Gone Wrong." *Alabama Law Review* 64 (5): 923–80.
- Loughlin, Martin. 2014. "The Concept of Constituent Power." *European Journal of Political Theory* 13 (2): 218–37. <https://doi.org/10.1177/1474885113488766>.
- Elster, Jon, Roberto Gargarella, Vatsal Naresh, and Bjørn Erik Rasch, eds. 2018. *Constituent Assemblies*. Cambridge University Press.

Sep. 17: Week Four—Constitutional Amendment

Readings

- Albert, Richard. 2019. "The Architecture of Constitutional Amendment." In *Constitutional Amendments: Making, Breaking, and Changing Constitutions*, edited by Richard Albert. Oxford University Press: 175–228.
- Jacobsohn, Gary Jeffrey, and Yaniv Roznai. 2020. "Revolutionary Constitutional Amendments: Hungary Between Rupture and Continuity." In *Constitutional Revolution*. Yale University Press: 59–101.
- Suteu, Silvia. 2021. *Eternity Clauses in Democratic Constitutionalism*. Oxford University Press: 169–203.

Suggested Readings

- Sweet, Alec Stone. 2007. "The Juridical Coup d'État and the Problem of Authority." *German Law Journal* 8 (10): 915–27.
- Oliver, Dawn, and Carlo Fusaro, eds. 2011. *How Constitutions Change: A Comparative Study*. Hart Publishing.
- Albert, Richard, Xenophon Contiades, and Alkmene Fotiadou, eds. 2017. *The Foundations and Traditions of Constitutional Amendment*. Hart Publishing.
- Schupmann, Benjamin A. 2024. *Democracy despite Itself: Liberal Constitutionalism and Militant Democracy*. Oxford University Press.

Sep. 24: Week Five—War Powers and Emergency Powers

Readings:

- Hasebe, Yasuo. 2012. "War Powers." In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 463–480.
- Lazar, Nomi Claire. 2009. *States of Emergency in Liberal Democracies*. Cambridge University Press: 1–18, 113–162.
- Bjørnskov, Christian, and Stefan Voigt. 2018. "The Architecture of Emergency Constitutions." *International Journal of Constitutional Law* 16 (1): 101–27.
- Bjørnskov, Christian, and Stefan Voigt. 2026. "Covid and the Constitution: Unlawful States of Emergency during the Pandemic." *European Journal of Law and Economics* 61 (1): 95–111.

Suggested Readings:

- Damrosch, Lori. 1991. "Constitutional Control of Military Actions: A Comparative Dimension." *American Journal of International Law* 85 (January): 92–104.
- Agamben, Giorgio. 2005. *State of Exception*. Translated by Kevin Attell. University of Chicago Press.
- Feldman, William. 2005. "Theories of Emergency Powers: A Comparative Analysis of American Martial Law and the French State of Siege." *Cornell International Law Journal* 38: 1021–48.
- Scheuerman, William E. 2006. "Emergency Powers and the Rule of Law After 9/11." *Journal of Political Philosophy* 14 (1): 61–84.
- Ferejohn, John, and Pasquale Pasquino. 2008. "Emergency Powers." In *The Oxford Handbook of Political Theory*, edited by John S. Dryzek, Bonnie Honig, and Anne Phillips. Oxford University Press: 333–348.
- Levinson, Sanford, and Jack M. Balkin. 2009. "Constitutional Dictatorship: Its Dangers and Its Design." *Minnesota Law Review* 94 (6): 1789–866.
- Zwitter, Andrej. 2012. "The Rule of Law in Times of Crisis: A Legal Theory on the State of Emergency in the Liberal Democracy." *ARSP: Archiv Für Rechts- und Sozialphilosophie* 98 (1): 95–111.
- Fombad, Charles Manga, and Lukman Adebisi Abdulrauf. 2020. "Comparative Overview of the Constitutional Framework for Controlling the Exercise of

Emergency Powers in Africa.” *African Human Rights Law Journal* 20 (2): 376–411.

- Bromo, Francesco, Paolo Gambacciani, and Marco Improta. 2025. “Governments and Parliaments in a State of Emergency: What Can We Learn from the COVID-19 Pandemic?” *Journal of Legislative Studies* 31 (4): 918–46.

Oct. 1: Week Six—The Separation of Powers

Readings:

- Martinez, Jenny S. 2012. “Horizontal Structuring.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld, András Sajó, Michel Rosenfeld, and András Sajó. Oxford University Press: 547–575.
- Gardbaum, Stephen. 2017. “Political Parties, Voting Systems, and the Separation of Powers.” *The American Journal of Comparative Law* 65 (2): 229–264.
- Strauss, Peter L. 2019. “Separation of Powers in Comparative Perspective: How Much Protection for the Rule of Law?” In *The Oxford Handbook of Comparative Administrative Law*, edited by Peter Cane, Herwig C. H. Hofmann, Eric C. Ip, and Peter L. Lindseth. Oxford University Press: 396–419.
- Young, Ernest. 2025. “States in the Separation of Powers.” *Harvard Journal of Law & Public Policy* 48 (1): 1–31.

Suggested Readings:

- Heller, Hermann. 1987 [1929]. “Rechtsstaat or Dictatorship?” Translated by Ellen Kennedy. *Economy and Society* 16 (1): 127–42.
- Carey, George W. 1978. “Separation of Powers and the Madisonian Model: A Reply to the Critics.” *The American Political Science Review* 72 (1): 151–64.
- Ackerman, Bruce. 2000. “The New Separation of Powers.” *Harvard Law Review* 113 (3): 633–729.
- Levinson, Daryl J., and Richard H. Pildes. 2006. “Separation of Parties, Not Powers.” *Harvard Law Review* 119 (8): 2311–86.
- Krotoszynski, Ronald. 2011. “The Separation of Legislative and Executive Powers.” In *Handbook of Research on Comparative Constitutional Law*, edited by Tom Ginsburg and Rosalind Dixon. Elgar Publishing.
- Möllers, Christoph. 2013. *The Three Branches: A Comparative Model of Separation of Powers*. Oxford University Press.
- Levy, Jacob T. 2025. “The Separation of Powers.” In *The Cambridge Handbook of Constitutional Theory*, edited by Jeff King and Richard Bellamy. Cambridge Law Handbooks. Cambridge University Press: 279–296.

Oct. 8: Week Seven—Federalism and the Unitary State

Readings:

- Stepan, Alfred C. 1999. “Federalism and Democracy: Beyond the U.S. Model.” *Journal of Democracy* 10 (4): 19–34.

- Halberstam, Daniel. 2012. "Federalism: Theory, Policy, Law." In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 576-608.
- Farhat, Nadim, Ward Vloeberghs, Philippe Bourbeau, and Philippe Poirier. 2020. "Transforming Unitary States into Federations: Path-Dependent Construction of Political Identities in Belgium and Lebanon." *Publius: The Journal of Federalism* 50 (4): 593–619.
- Mathieu, Félix. 2022. "Minority Nations v. Constitutional Architectures: A Critical Appraisal of Unitary and Federal Models of the Modern State." *Nations & Nationalism* 28 (3): 825–40.

Suggested Readings:

- Elazar, Daniel J. 2006. *Exploring Federalism*. University Alabama Press.
- Burgess, Michael. 2006. *Comparative Federalism: Theory and Practice*. Routledge.
- Levy, Jacob T. 2007. "Federalism, Liberalism, and the Separation of Loyalties." *The American Political Science Review* 101 (3): 459–77.
- Tierney, Stephen. 2009. "Federalism in a Unitary State: A Paradox Too Far?" *Regional & Federal Studies* 19 (2): 237–53.
- Gromes, Thorsten. 2010. "Federalism as a Means of Peace-Building: The Case of Postwar Bosnia and Herzegovina." *Nationalism and Ethnic Politics* 16 (3–4): 354–74.
- Voigt, Stefan, and Lorenz Blume. 2012. "The Economic Effects of Federalism and Decentralization—a Cross-Country Assessment." *Public Choice* 151 (1/2): 229–54.
- Calabresi, Guido, and Eric S. Fish. 2016. "Federalism and Moral Disagreement." *Minnesota Law Review* 101 (1): 1–29.
- Lev, Amnon. 2018. "A House Divided: Federalism and Social Conflict in Italy." *Federal Law Review* 46 (4): 615–30.
- Breen, Michael G. 2018. "The Origins of Holding-Together Federalism: Nepal, Myanmar, and Sri Lanka." *Publius: The Journal of Federalism* 48 (1): 26–50.
- Yimenu, Bizuneh. 2024. "Federalism and State Restructuring in Africa: A Comparative Analysis of Origins, Rationales, and Challenges." *Publius: The Journal of Federalism* 54 (1): 6–33
- Breen, Michael G., and Iain Payne. 2025. "The Concept and Uses of Hourglass Federalism: A Comparative Study." *Regional & Federal Studies* 35 (2): 257–81.

Oct. 15: Week Eight— Judicial Review

Readings:

- Smilov, Daniel. 2012. "The Judiciary: The Least Dangerous Branch?" In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 859-873.

- Barroso, Luís Roberto. 2019. “Countermajoritarian, Representative, and Enlightened: The Roles of Constitutional Courts in Democracies.” *The American Journal of Comparative Law* 67 (1): 109–43.
- Hirschl, Ran. 2024. “The Global Expansion of Judicial Power.” In *The Oxford Handbook of Comparative Judicial Behaviour*, edited by Lee Epstein, Gunnar Grendstad, Urška Šadl, and Keren Weinshall. Oxford University Press: 65-88.
- Kim, Dongwook, and Paul Nolette. 2024. “The Institutional Foundations of the Uneven Global Spread of Constitutional Courts.” *Perspectives on Politics* 22 (1): 294–311.

Suggested Readings:

- Bickel, Alexander M. 1986. *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*. Second Edition. Yale University Press.
- Hirschl, Ran. 2000. “The Political Origins of Judicial Empowerment Through Constitutionalization: Lessons from Four Constitutional Revolutions.” *Law & Social Inquiry* 25 (1): 91–149.
- Ferejohn, John. 2002. “Judicializing Politics, Politicizing Law.” *Law and Contemporary Problems* 65 (3): 41–68.
- Hirschl, Ran. 2004. *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*. Harvard University Press.
- Tushnet, Mark. 2009. *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*. Princeton University Press.
- Gardbaum, Stephen. 2014. “Separation of Powers and the Growth of Judicial Review in Established Democracies (or Why Has the Model of Legislative Supremacy Mostly Been Withdrawn From Sale?).” *The American Journal of Comparative Law* 62 (3): 613–40.
- Grimm, Dieter. 2016. “Constitutions, Constitutional Courts, and Constitutional Interpretation at the Interface of Law and Politics.” In *Constitutionalism: Past, Present, and Future*, by Dieter Grimm. Oxford University Press: 199-212.
- Tushnet, Mark. 2020. *Taking Back the Constitution: Activist Judges and the Next Age of American Law*. Yale University Press.
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Oct. 22: Week Nine—Presidentialism and Parliamentarism

Readings:

- Fix-Fierro, Héctor, and Pedro Salazar-Ugarte. 2012. “Presidentialism.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and Andrés Sajó. Oxford University Press: 628-649.
- Bradley, Anthony W., and Cesare Pinelli. 2012. “Parliamentarism.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and Andrés Sajó. Oxford University Press: 650–670.

- Boyron, Sophie. 2020. “Semi-Presidentialism: The Rise of an ‘Accidental’ Model.” In *The Oxford Handbook of Comparative Administrative Law*, edited by Peter Cane, Herwig C. H. Hofmann, Eric C. Ip, and Peter L. Lindseth. Oxford University Press: 315-338.
- Gardbaum, Stephen. 2024. “Democratic Design and the Twin Contemporary Challenges of Fragmented and Unduly Concentrated Political Power.” In *The Entrenchment of Democracy: The Comparative Constitutional Design of Elections, Parties and Voting*, edited by Aziz Z. Huq, Tarun Khaitan, and Tom Ginsburg. Cambridge University Press: 171-187.

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- Sartori, Giovanni. 1997. *Comparative Constitutional Engineering*. Second Edition. NYU Press: 83-140, 173-194.
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- Ip, Eric C. 2020. “Parliamentary Regimes.” In *The Oxford Handbook of Comparative Administrative Law*, edited by Peter Cane, Herwig C. H. Hofmann, Eric C. Ip, and Peter L. Lindseth. Oxford University Press.

Oct. 29: Week Ten—Citizenship, Electoral Systems, and Parties

Readings:

- Shachar, Ayelet. 2012. “Citizenship.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 1002-1019.
- Pildes, Richard H. 2012. “Elections.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 529-544.
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- Sartori, Giovanni. 1997. *Comparative Constitutional Engineering*. Second Edition. NYU Press: 1-79.
- Tushnet, Mark. 2021. *The New Fourth Branch*. Cambridge University Press.

Nov. 5: Week Eleven—Negative Rights

Readings:

- Vogler, Richard. 2012. “Due Process.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 929-947.
- Barendt, Eric. 2012. “Freedom of Expression.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 891-908.
- Hirschl, Ran. 2011. “Comparative Constitutional Law and Religion.” In *Comparative Constitutional Law*, edited by Tom Ginsburg and Rosalind Dixon. Edward Elgar Publishing.
- Espinosa, Manuel José Cepeda. 2012. “Privacy.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 966-981.
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Suggested Readings:

- Berlin, Isaiah. 1958. *Two Concepts of Liberty*. Clarendon Press.
- Currie, David. 1986. “Positive and Negative Constitutional Rights.” *University of Chicago Law Review* 53 (3): 864–90.
- Hirschl, Ran. 2000. “‘Negative’ Rights vs. ‘Positive’ Entitlements: A Comparative Study of Judicial Interpretations of Rights in an Emerging Neo-Liberal Economic Order.” *Human Rights Quarterly* 22 (4): 1060–98.
- Cross, Frank B. 2001. “The Error of Positive Rights.” *UCLA Law Review* 48 (4): 857–924.
- Grimm, Dieter. 2016. “Return to the Traditional Understanding of Fundamental Rights?” In *Constitutionalism: Past, Present, and Future*, edited by Dieter Grimm. Oxford University Press: 183-196.
- Dixon, Rosalind, and Julie Suk. 2018. “Liberal Constitutionalism and Economic Inequality.” *The University of Chicago Law Review* 85 (2): 369–402.
- Carter, Ian, and Ilkin Huseynli. 2026. “Positive and Negative Liberty.” In *The Stanford Encyclopedia of Philosophy*, Fall 2026, edited by Edward N. Zalta and Uri Nodelman. Metaphysics Research Lab, Stanford University.
<https://plato.stanford.edu/archives/fall2026/entries/liberty-positive-negative/>.

Nov. 12: Week Twelve—Positive Rights

Readings:

- Davis, D. M. 2012. “Socio-Economic Rights.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 1020-1035.

- Ewing, K. D. 2012. “Economic Rights.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 1036-1054.
- Angel-Cabo, Natalia, and Domingo Lovera Parmo. 2015. “Latin American Social Constitutionalism: Courts and Popular Participation.” In *Social and Economic Rights in Theory and Practice*, edited by Helena Alviar García, Karl Klare, and Lucy A. Williams. Routledge: 85-104.
- Hailbronner, Michaela. 2017. “Transformative Constitutionalism: Not Only in the Global South.” *The American Journal of Comparative Law* 65 (3): 527–65.
- Fowkes, James. 2020. “Normal Rights, Just New: Understanding the Judicial Enforcement of Socioeconomic Rights.” *The American Journal of Comparative Law* 68 (4): 722–59.

Suggested Readings:

- Daintith, Terence. 2004. “The Constitutional Protection of Economic Rights.” *International Journal of Constitutional Law* 2 (1): 56–90.
- Búrca, Gráinne de, Bruno de Witte, and Larissa Ogertschnig, eds. 2005. *Social Rights in Europe*. Oxford University Press.
- Gauri, Varun, and Daniel M. Brinks, eds. 2008. *Courting Social Justice: Judicial Enforcement of Social and Economic Rights in the Developing World*. Cambridge University Press.
- King, Jeff. 2012. *Judging Social Rights*. Cambridge University Press.
- Landau, David. 2012. “The Reality of Social Rights Enforcement.” *Harvard International Law Journal* 53 (1): 319–78.
- Young, Katharine G. 2014. *Constituting Economic and Social Rights*. Oxford University Press.
- Nolan, Aoife, ed. 2014. *Economic and Social Rights after the Global Financial Crisis*. Cambridge University Press.
- Moyn, Samuel. 2018. *Not Enough: Human Rights in an Unequal World*. Belknap Press: An Imprint of Harvard University Press.
- Taylor, Whitney K. 2023. *The Social Constitution*. Cambridge University Press.

Nov. 19: Week Thirteen—Illiberal Constitutionalism?

Readings:

- Thio, Li-ann. 2012. “Constitutionalism in Illiberal Polities.” In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 133-152.
- Elkins, Zachary, and James Melton. 2013. “The Content of Authoritarian Constitutions.” In *Constitutions in Authoritarian Regimes*, edited by Alberto Simpser and Tom Ginsburg. Cambridge University Press: 141-164.
- Law, David S., and Mila Versteeg. 2013. “Constitutional Variation among Strains of Authoritarianism.” In *Constitutions in Authoritarian Regimes*, edited by Alberto Simpser and Tom Ginsburg. Cambridge University Press: 165-196.

- Mallat, Chibli. 2012. "Islam and the Constitutional Order." In *The Oxford Handbook of Comparative Constitutional Law*, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 1287-1303.

Suggested Readings:

- Grote, Rainer, and Tilmann J. Röder. 2012. *Constitutionalism in Islamic Countries: Between Upheaval and Continuity*. Oxford University Press.
- Isiksel, Turkuler. 2013. "Between Text and Context: Turkey's Tradition of Authoritarian Constitutionalism." *International Journal of Constitutional Law* 11 (3): 702–26.
- Landau, David. 2013. "Abusive Constitutionalism." *U.C. Davis Law Review* 47: 189.
- Tushnet, Mark. 2015. "Authoritarian Constitutionalism." *Cornell Law Review* 100 (2): 391-462.
- Ortega, Roberto Niembro. 2016. "Conceptualizing Authoritarian Constitutionalism." *Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 49 (4): 339–67.
- García, Helena Alviar, and Günter Frankenberg. 2019. *Authoritarian Constitutionalism: Comparative Analysis and Critique*. Edward Elgar Publishing.
- Rosen, Lawrence. 2021. "Islamic Conceptions of the Rule of Law." In *The Cambridge Companion to the Rule of Law*, edited by Jens Meierhenrich and Martin Loughlin. Cambridge Companions to Law. Cambridge University Press: 86-100.
- Gouda, Moamen, and Shima Hanafy. 2022. "Islamic Constitutions and Democracy." *Political Research Quarterly* 75 (4): 994–1005.
- Fruhstorfer, Anna. 2026. *Constitutional Change under Autocracy*. Oxford University Press.

Nov. 26: Week Fourteen—No Class

- Happy Thanksgiving!

Dec. 3: Week Fifteen—Constitutionalism and International Relations

Readings:

- Porter, Bruce. 1994. "The Mirror Image of War." In *War and the Rise of the State: The Military Foundations of Modern Politics*, by Bruce Porter. Free Press: 1-22.
- Pevehouse, Jon C. 2002. "Democracy from the Outside-In? International Organizations and Democratization." *International Organization* 56 (3): 515–49.
- Zarakol, Ayşe. 2013. "Revisiting Second Image Reversed: Lessons from Turkey and Thailand." *International Studies Quarterly* 57 (1): 150–62.
- Owada, Hisashi. 2015. "Problems of Interaction Between the International and Domestic Legal Orders." *Asian Journal of International Law* 5 (2): 246–78.
- Chang, Wen-Chen, and Jiunn-Rong Yeh. 2012. "Internationalization of Constitutional Law." In *The Oxford Handbook of Comparative Constitutional*

Law, edited by Michel Rosenfeld and András Sajó. Oxford University Press: 1165-1184.

Suggested Readings:

- Gourevitch, Peter. 1978. "The Second Image Reversed: The International Sources of Domestic Politics." *International Organization* 32 (4): 881–912.
- Kirby, Michael. 2006. "International Law-The Impact on National Constitutions." *American University International Law Review* 21 (3): 327–64.
- Choudhry, Sujit, ed. 2007. *The Migration of Constitutional Ideas*. Cambridge University Press.
- Waters, Melissa A. 2007. "Creeping Monism: The Judicial Trend toward Interpretive Incorporation of Human Rights Treaties." *Columbia Law Review* 107: 628.
- Bogdandy, Armin von. 2008. "Pluralism, Direct Effect, and the Ultimate Say: On the Relationship between International and Domestic Constitutional Law." *International Journal of Constitutional Law* 6 (3–4): 397–413.
- Paust, Jordan J. 2013. "Basic Forms of International Law and Monist, Dualist, and Realist Perspectives." SSRN Scholarly Paper No. 2293188. Social Science Research Network, July 12. <https://papers.ssrn.com/abstract=2293188>.
- Shelton, Dinah. 2011. "Introduction." In *International Law and Domestic Legal Systems: Incorporation, Transformation, and Persuasion*, edited by Dinah Shelton. Oxford University Press: 1-22.
- Poast, Paul, and Johannes Urpelainen. 2015. "How International Organizations Support Democratization: Preventing Authoritarian Reversals or Promoting Consolidation?" *World Politics* 67 (1): 72–113.
- Gunitsky, Seva. 2017. *Aftershocks: Great Powers and Domestic Reforms in the Twentieth Century*. Princeton University Press.

Finals Week

- Final papers due by midnight Dec. 10