

# **4. Mid-term 1 Review**

**Breakout Sessions**

**POLS 1101**

**8:40am-9:35am Baldwin 322**

**& 9:55am-10:50am Journalism 509**

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# Federalism

# Theories

- **Dual federalism:** The powers of the national government and the states are clearly distinguished.
  - *Delegated powers; Reserved powers*
- **Cooperative federalism:** Different levels of governments work together to serve people's needs.
- **Ideal types!** Reality is a mix-up of them.

# How can federalism be influenced?

- Judicial interpretation
  - Recall: Actual lawmakers **vs.** Essential discretionary power
- Grants-in-Aid: Money, money, money!
  - **Categorical grants, Block grants**
  - Formula grants, Competitive grants
- National crises and demands
  - Inadequate state capacity
  - What is “crisis”? What is “state capacity”?
    - Recent cases
- Professionalization of state governments
  - Strong state capacity

# Ideology, Policymaking, and Federalism

- Recall: The major differences between liberals & conservatives lie in their views toward **the purpose of the government** (socio-economic dimension).
- In reality, conservatives do not always support the expansion of the state power, and liberals can be against national power. **The key here is still what the national / state power is used for.**
- **Preemption:** the power of Congress to enact laws by which the national government assumes **total or partial responsibility** for a state government function.
  - Do you think there are some powers that must be retained in the states? If you do, what are these powers? Why do you think this way?

## The Division of Powers in the Federal System

### NATIONAL POWERS

- Declare war
- Make treaties and conduct foreign relations
- Coin money
- Regulate interstate commerce and commerce with foreign nations
- Raise and support armies and navy
- Create courts inferior to the Supreme Court
- Make laws necessary and proper to carry out the above powers

### STATE POWERS

- Draw electoral district lines and conduct elections
- Conduct intrastate commerce
- Create districts for local rule
- Exercise police powers to protect health, safety, morals, and public welfare
- Ratify amendments to the constitution
- Exercise powers not delegated to the national government or prohibited to the states

- Taxes
- Public health
- Auto safety
- Roads
- Commerce
- Judicial systems
- Borrowing money

↑  
**Delegated powers**

↑  
**Concurrent powers**

↑  
**Reserved powers**

# Advantages and Disadvantages of Federalism

- **One puzzle where “common sense” fails**
  - Generally, the local government is closer to people and directly influence policies, so citizens will be passionate about voting in local elections, regardless of their ideologies, party identities, etc.
  - **Actually, people are much less likely to vote in state and local elections. –Why?**
    - **Remark: A great study starts from the gap between theory and reality!**
    - **Dispersed power** -> little publicity for local elections, nonpartisan local affairs -> less prominent competition, less clearly recognizable identity labels -> **political apathy**
    - **Dispersed power** -> complex government structure, higher requirement for political participation -> hard for people to participate -> **political apathy**
    - **Therefore, more participating opportunities do not lead to majoritarian democracy, but to pluralist democracy** -> an possible explanation for the intension between the majority rule and the pluralist reality.
    - Anyway, federalism provides more **flexibility!**

# Civil Liberties



# Fundamental Concepts

- **Civil liberties:** Restraints on the government (“negative rights”)
- **Civil rights:** What the government must do to protect individuals (“positive rights”).
- Civil liberties were confirmed by the Constitution, and even expanded in political (judiciary) practices.
  - **Due-process clause** (the 14<sup>th</sup> Amendment): Applied the principles of the Bill of Rights to the state level; civil liberties were to be protected from state laws.
  - Therefore, it is essential to know about cases (and how the SC statement evolved) if we wish to understand civil liberties.
    - **Selective incorporation:** SC as the “actual law maker” – It has determined, on a case-by-case basis, whether a particular Bill of Rights guarantee applies to the states via the 14th Amendment.

# Freedom of Expression

- **Basic principle (1<sup>st</sup> Amendment):** Unrestricted discussion of public affairs
  - However, 1) it says nothing about private restrictions on speech;
  - 2) There should be no threats to public order.
    - ❑ Clear and present danger test (**Schenck v. United States, 1919**)  
-> Immediate and real threat (**Brandenburg v. Ohio, 1969**)
    - ❑ Fighting words (**Chaplinsky v. New Hampshire, 1942; Cohen vs. California, 1971**)
- **Extensions**
  - **Symbolic expression (non-verbal communication)**
    - ❑ Tinker v. Des Moines Independent County School District (1969)
    - ❑ Texas v. Johnson (1989)
    - ❑ Citizens United v. Federal Election Commission (2010)
  - **Obscenity**
    - ❑ Miller v. California (1973)
    - ❑ Jenkins v. Georgia (1974)
    - ❑ Reno v. ACLU (1997)

# Freedom of Expression (cont`d)

- **Extensions**

- **Hate speech**

- ❑ Nationalist Socialist Party of America v. Village of Skokie (1977)

- ❑ Matal v. Tam (2016)

- **Freedom of the press**

- ❑ **Priori restraint:** censorship before publication

- .....

- **NOTES**

- What was the decision of a case, and how did SC **come to** it (even overruling a precedent)?

- How did the majority (and even minority) opinion **interpret** the Constitution?

- What is the **relationship** between cases?

- Remember “freedom of speech” applies **only to public affairs**.

# Freedom of Religion

- **The Establishment Clause: ✗ establish certain religions!**
  - Establishment clause and school prayer (see slides)
    - Engel v. Vitale (1962)
    - Wallace v. Jaffree (1985)
    - Santa Fe Independent School District v. Doe (2000)
  - Lemon v. Kurtzman (1971) & *Lemon Test* (see slides)
  - Agostini v. Felton (1997): Requires government neutrality
  - Lynch v. Donnelly (1984): Blurred boundaries between religious expression and secular tradition in pluralistic contexts (majority – minority)!

# Freedom of Religion (cont`d)

- **The Free-exercise Clause:** ✗ interfere with certain religious exercises!
  - Tensions between the establishment clause & the free-exercise clause
    - Under a neutral, generally applicable law, **when must** the government grant a religious exemption, and **when may** it refuse?  
Propose a workable standard, and address whether exemptions impose meaningful harms on third parties or signal governmental favoritism toward religion.
- Basic principle: **Strict scrutiny** (a balance between free exercise and establishment?)
  - If a law imposes burden on a religious belief or conduct, it must serve a **compelling** governmental interest, be **narrowly tailored**, and employ **the least restrictive** means.

# Should “implied” rights be protected?

- **Privacy (Also see slides)**

- Griswold v. Connecticut (1965): Right to privacy is an “**implied right**” (maybe we can call it this way!) in the Bill of Rights!
- Roe v. Wade (1973): the right to **abortion**
- Lawrence v. Texas (2003): legalization of **same-sex sexual conduct**
- Obergefell v. Hodges (2015): legalization of **same-sex marriage**
- Dobbs v. Jackson Women’s Health Organization (2022): More conservative attitude toward **substantive due process rights (“implied rights”)**

- **Back to key controversies in the Constitution & Federalism**

- When a claimed right is not enumerated in the Constitution, is it legitimate for courts to recognize it as “liberty”? If so, **on what basis** (tradition, constitutional principles, dignity/autonomy, social consensus)? How do we avoid the charge of judicial invention?

# The Rights of the Accused

- From **Substantive liberties (due process rights)** to **Procedural liberties**
  - Protecting fundamental rights (liberties)
  - Ensuring fair process (in arrest, prosecution, trial, appeal, ...) -> Basic respect for individuals
- **Basic concepts**
  - **Bill of attainder**: A law passed by a legislature that declares a specific person or group guilty of a crime and imposes punishment **without a trial** (✗)
  - **Ex post facto law**: A law that declare an action a crime **after it has been performed** (but not illegal when it was performed). (✗)
  - **Miranda Warnings**: The warnings that U.S. police officers are required to give to suspects before custodial interrogation (they have to do that!)
  - **Exclusionary rule**: evidence obtained in an illegal search and seizure cannot be used in trial.
  - **Good faith exception**: However, If police officers obtained the evidence **while acting in reasonable reliance on a search warrant or law they believed to be valid**, the evidence may still be admitted, even if the warrant or law is later found unconstitutional or invalid.

# Civil Rights



# Basic Concepts

- *Equality of opportunity vs. Equality of outcome*
- **Invidious discrimination:** Discrimination based on animosity, working to harm.  
**Benign discrimination:** Discrimination grounded in reason, causing no harm.
  - **Systemic racism:** Laws, policies, processes, and structures in society that create racially disparate outcomes.

# Equality for Black Americans

- **Civil War Amendments (13<sup>th</sup> – 15<sup>th</sup>): What are they about?**
  - Even after that, the Constitutional rights of African-Americans are not sufficiently protected (only better than before)
    - Examples: Black Codes, Jim Crow Laws, poll tax (tax on voting citizens)
- **Courtroom Efforts to Dismantle Barriers to Full Citizenship**
  - (Background) **Separate but equal doctrine**: Plessy v. Ferguson (1896)
  - **Desegregation**: Brown v. Board of Education
    - Remember: Applied only to **De jure segregation** (Government-imposed segregation), not to **de facto segregation** (segregation that is not the result of direct public policy)

# **Mid-term 1 Review**

# Midterm 1

- **Location:** Breakout Section Classroom
- **Time:** Breakout Section Time, Friday (2/13)
  - ❑ If anyone needs A&T (DRC) accommodations, please contact them to make arrangements
  - ❑ If they need approval from instructors, please contact Dr. Nicholson, since he is responsible for this class.
- **Layout:** Multiple choices (25-30) [Scantron 882-E] & Short-answer questions (choose 4-5) [Bluebook] – remember to buy bluebooks, scantrons, #2 pencils at the bookstore
- **Remember:** This is a CLOSED BOOK exam! Pay attention to integrity requirements!
- **What:** Political Values – Civil Rights, all we have learned (and will learn) before the test
- **Suggestions**
  - ❑ Remember **my name** and the **time for your breakout session (not time for lecture! But 8:40 F, or 9:55 F)**, since you will write it **on the cover of your bluebook**.
  - ❑ **Key ideas** (theory, concept, professional items, SC cases) + **explanation** (when, where, who, what, why, how – not all of them; **put down what you believe to be necessary**)
  - ❑ **If you are not sure, much is better. If you really have no idea, only telling stories is also encouraged.**

# Midterm 1 Review

- **Review Sheet on eLC**

- Combine it with **lecture slides**, as well as breakout session slides (if you find it helpful to understand basic concepts & theories)

- **Thanks to our Lead TA, Mckinley Frees!**

- **Key items review:** <https://quizlet.com/941685878/key-terms-in-political-science-flash-cards/?i=61humc&x=1jqd>
- **Study guide:** <https://quizlet.com/study-guides/key-terms-in-political-science-d2f0198b-e0ea-489b-8865-618807e199dd?i=61humc&x=13qt>

# Group Study Activity: Midterm 1 Review

- **Goal:** To produce a mini study guide (NOT to just repeat definitions!)
  - Focus on relationships, distinctions, and exam-style thinking
  - Output must be **organized**, and **aligned with the exam style**.

- Each group produces the review material for **ONE chapter**.

## Several forms for reference:

- **Confusion Pairs:** A vs B, C vs D, ...
- **Concept Map:** 1 or more map showing relationships
  - A framework that contains the most important concepts and their inner logic
  - (Should) also **add important items from lecture slides that are not on the review sheet**
  - *If a map is too difficult, a list of definitions / explanations of the concepts is also okay – then you actually combine the first two forms together.*
- **Predicted Exam Set:** MC + Short Answer (with answer)

You can decide the assignment of work within your group.

22485 (8:40 Baldwin)

<https://docs.google.com/document/d/1oZrGo7eacLaCJrTkN53ogvj3fpJ4I3PoBzvRhrtt-Tg/edit?usp=sharing>

22490 (9:55 Journalism)

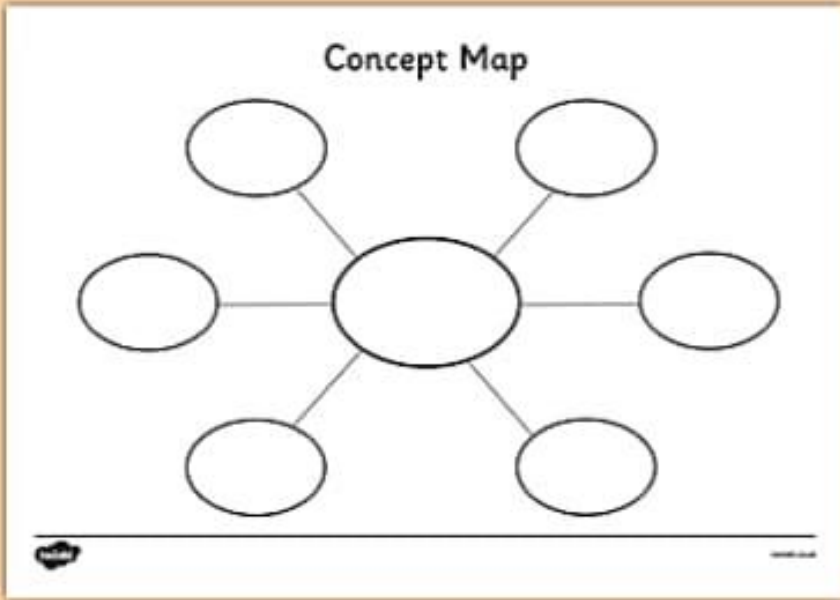
<https://docs.google.com/document/d/1H5oz7vaxXajeKPDKvuJgA9EZTay28qLoioXgBWpZFt4/edit?usp=sharing>

# 1. Confusion Pairs

- Pick several pairs using **any** of these criteria:
  - **Similar wording** (easy to mix up)
  - **Same topic, different logic** (e.g., model vs model / clause vs clause)
  - **One is a subset / mechanism / cause / outcome of another**
  - **Likely wrong-answer trap** (a real term used in the wrong context)
- **Required format for each pair**
  - Pair: A vs B
  - (Decision rule: “If \_\_\_\_ → A; if \_\_\_\_ → B.”)
  - (Trap: “Students confuse them when \_\_\_\_.”)
- e.g.
  - Procedural / substantive democracy
  - Layer-cake / marble cake federalism
  - Lemon v. Kurtzman (1971) & *Lemon Test*
- Not acceptable:
  - Copying textbook definitions
  - Two terms that are basically synonyms
  - A vs B with no “decision rule”
  - A list of 10 pairs with no inner logic
- Acceptable:
  - Fewer pairs but **highly interrelated concepts** that predict exam answers

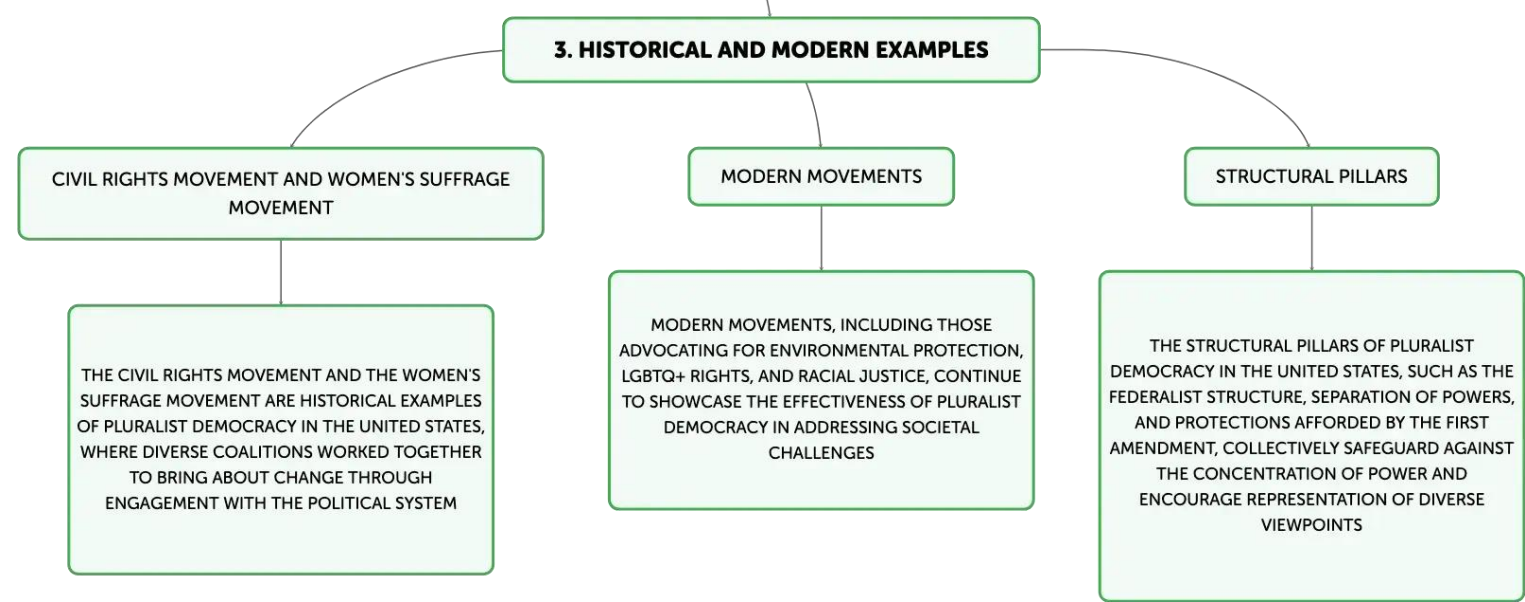
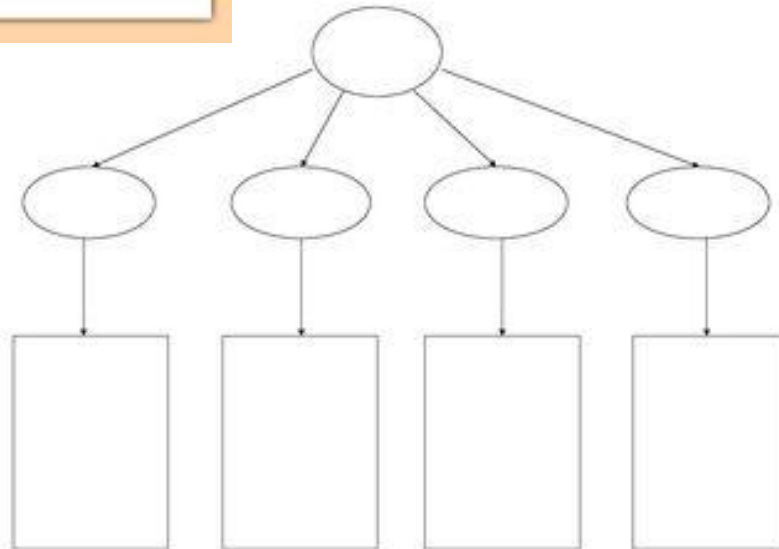


# 2. Concept Maps

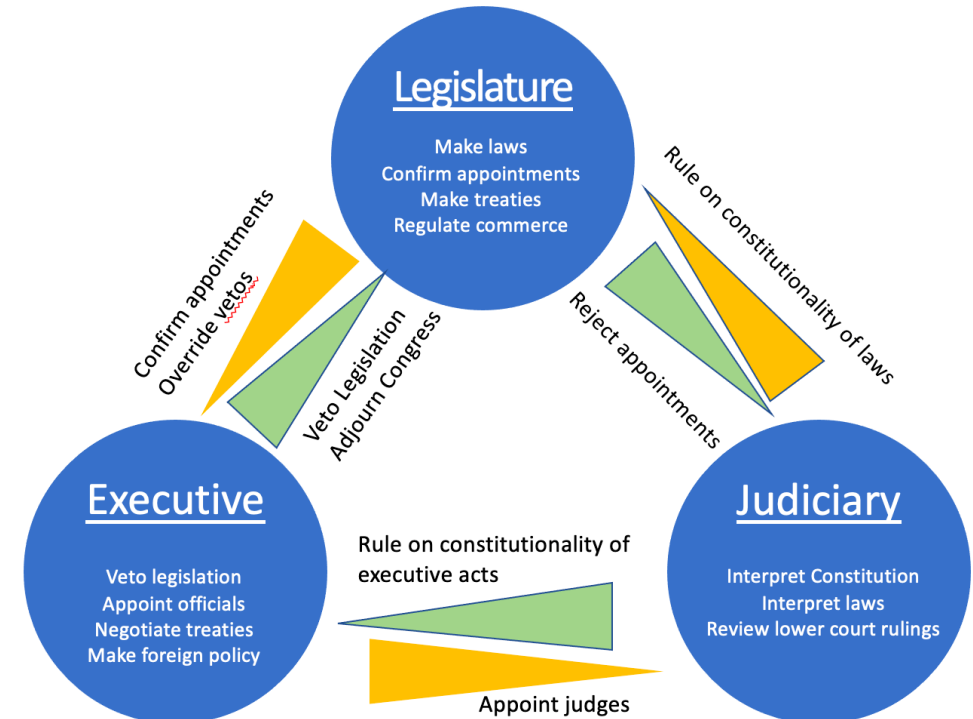


## You can:

- group ideas together
- show contrasts
- show “this leads to that”
- show where people usually get confused



## Separation of Powers / Checks and Balances



### 3. Predicted Exam Set

- **MC**

- Each citizen having one vote demonstrates which principle of procedural democracy?  
A. Universal participation.    B. Political equality.    C. Majority rule.    D. Responsiveness
- A private employer fires an employee for what they posted online. Is this a First Amendment violation?  
A. Usually yes  
B. Usually no  
C. Only if the post is offensive  
D. Only if it is political speech

- **SA**

- Discuss the principles of procedural democracy.
- Federalism can be described with cake metaphors. What is layer-cake and marble cake federalism? Which metaphor best describes how federalism works today?

# More Tips for Short-answer Questions

- Use key items as **much & accurate** as possible
  - Telling stories is okay if you forget the concepts, where can get some of the points
    - Only when the story you tell is extremely close to the key idea of professional items can you get all the points.
    - However, try as possible as you can to write what you know down to your bluebook – it could really increase the probability of getting more credits! **DO NOT LEAVE ANY QUESTION BLANK!**
- Avoid too big, too general pictures in your answer -> **BE SPECIFIC!**
  - For history: **Who? Why** (especially its relation to **theoretical implications**)? **What?** (e.g. names of **influential cases of the SC**) **How? Impacts** on later events?
  - For theoretical questions: **Item** + **key idea** + How it **applies** to your answer
- Suggestion: Maybe you can make full use of your bluebook – no need to fit all the answers onto two pages. Again, write the time for your **DISCUSSION SESSIONS** (not TTR 1:15-2:10, but **F 8:40 / F 9:55**) on the cover of your bluebook!

# More Tips for Short-answer Questions (cont`d)

- **Don't overlook details** – they can be both in MC and SA questions.
- **Try to use bullet points (1,2,3; a,b,c; ...).**
  - Make your ideas easy to identify — graders can quickly find your key points and give you credits.
- **Use enough space** — **don't squeeze your writing at the bottom of the page.**
  - **We use each bluebook only ONCE** – so there's no need to save space for next time.
  - Make your answers clear and easy to read!
- **When your answer is not included in your textbook / slides but makes sense, I give you “appropriate” credits.**
  - I'm happy to see your own thinking, since we cannot remember everything.
  - However, still try to review carefully, since some of your own ideas can overlap with each other – in essence they refer to the same “key concept”. In this case, maybe you cannot get a full credit.

# Next week...

**Good luck in your Mid-term 1!**

- Feel free to email me if you have any questions!
- ENJOY YOUR WEEKEND!
- Don't forget to prepare for your exam!