

**CONSTITUTIONAL PRINCIPLES: CORE TEXTS (GOV 312P, UNIQUE #38365)**  
THE UNIVERSITY OF TEXAS AT AUSTIN  
Fall 2022

Professor: Timothy Brennan

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Class Time: TTh, 8.00-9.20

Location: MEZ 1.216

Office Hours: TBA

Link for my Zoom meeting room: <https://utexas.zoom.us/j/3126459878> (this link can also be found through Canvas, under the Zoom tab)

## I. Course Description

This class is devoted to the underlying principles of American political life. We will proceed mainly through a close reading of primary sources. Topics discussed will include: the principles of the Declaration of Independence; the problem of slavery in the founding and the early republic; the moral and constitutional issues at stake in the Civil War; the question of civil disobedience; the debate over the Constitution of 1787 between the Federalists and the Anti-Federalists; the disagreement between James Madison and Thomas Jefferson over constitutional change; competing theories of constitutional interpretation; the nature of democracy as a social condition; the tyranny of the majority; the phenomena of individualism and materialism. The class carries a Cultural Diversity in the U.S. Flag: our first unit will explore the writings of Frederick Douglass, Booker T. Washington, W.E.B. Du Bois, and other African-American authors. The class also carries an “Ethics” flag: we will consider the difficult practical questions faced by leaders such as Douglass, Washington, Du Bois, Lincoln, Madison, and others.

## II. Required Texts

Please make sure you purchase physical copies of the exact editions listed below. E-books or different editions are not acceptable substitutes.

1. Publius (Alexander Hamilton, James Madison, and John Jay). *The Federalist Papers*. Edited by Clinton Rossiter. Signet Classics. ISBN 0451528816.
2. Alexis de Tocqueville, *Democracy in America*. Translated by George Lawrence, Perennial Classics, 2000. ISBN: 0061127922.
3. Frederick Douglass. *Narrative of the Life of Frederick Douglass*. Penguin Publishing Group. ISBN 9780451529947.
4. Booker T. Washington. *Up From Slavery*. Dover Classics. ISBN 0486287386.
5. Course Packet. (This will be posted in Canvas as a PDF and will also be available for purchase as a physical text from Document Solutions in GSB 3.136 at 100 W 21st St).

## III. Assignments

Attendance and participation (15%)

First Exam (25%)

Final Exam (35%)  
Analytical/Interpretive Essay (25%)

#### **IV. Course Policies**

**Books.** You are required to have a physical copy (rather than an e-book version) of every book. Used copies are fine, but make sure you have the exact book editions listed above. You are also required to have the relevant readings with you in class. If you choose not to purchase the Course Packet, which will also be posted as a PDF on Canvas, you should print out copies of the relevant readings and bring them with you to class.

**Grade for Attendance and Participation.** Your final attendance and participation grade will be scored out of 15 on the following scale: 0 (very frequent unexcused absences); 6-8 (regular attendance but few or no contributions to class discussions over the semester as a whole); 9-12 (regular attendance and fair or good contributions to class discussions over the semester as a whole); 13-15 (regular attendance and very good or excellent contributions to class discussions over the semester as a whole).

**Unexcused Absences.** Unexcused absences within reason are permitted and you are not required to notify me about them unless you are experiencing a long-term issue which will affect your course performance, but very frequent absence will jeopardize your grade for attendance and participation.

**Excused Absences.** You will be excused from attendance if you have: flu- or Covid-like symptoms (notify me at least an hour before class); a documented illness or family emergency; a religious holiday (notify me at least two weeks in advance).

**Exams.** The midterm exam is scheduled for Thursday, September 22, 8.00am-9.20am (i.e., during class time). The final exam is scheduled for Friday, December 9, 3.30pm-5.30pm. Information about the format of the exams will be sent out as the dates approach.

**Essays.** You will receive essay topics and guidelines approximately two weeks before the due date. The same late penalty will apply to all students – in the interests of fairness, exceptions based on personal circumstances cannot be considered.

**Office Hours.** I will hold office hours. If you would like to talk to me outside class time but you are not free at the scheduled times, please either talk to me straight after class or send me an email with a couple of alternative times to talk. If you just have a brief question that could be answered in a sentence or two, feel free to email me any time.

**Electronic Devices.** The use of laptops, tablets, cell phones, and other electronic devices is not permitted during class time.

**Class Recordings.** Classes will not be recorded.

**Grades.** With the exception of your grade for attendance and participation, plus and minus grades will be used as follows: A (94-100); A- (90-93); B+ (87-89); B (84-86); B- (80-83); C+ (77-79); C (74-76); C- (70-73); D (60-69); F (below 60).

**Academic Integrity.** Academic dishonesty will be treated extremely seriously. Plagiarism will result in an F for the course. The university's Honor Code, with information on the meaning of academic integrity, can be found online (<http://catalog.utexas.edu/general-information/the-university/>).

**Disabilities.** If you are a student with a disability, or think you may have a disability, and need accommodations please contact Services for Students with Disabilities (SSD). You may refer to SSD's website for contact and more information: <http://diversity.utexas.edu/disability/>. If you are already registered with SSD, please deliver your Accommodation Letter to me as early as possible in the semester so we can discuss your approved accommodations.

## COURSE READING SCHEDULE

The schedule below is subject to revisions, as dictated by the pace of our discussions.

Readings found in the course packet are marked "CP."

### Class Dates

#### August 23: Locke and the Declaration of Independence

John Locke, *Second Treatise of Government* (CP)  
The Declaration of Independence (in *The Federalist Papers*, pp. 528-32)  
Thomas Jefferson, Letter to Roger Weightman (CP)

#### August 25: The Problem of Slavery in the Early Republic

Patrick Henry, Letter to Robert Pleasants (CP)  
Debates on Slavery at the Constitutional Convention (CP)  
Benjamin Franklin, "Petition" (CP)  
Alexis de Tocqueville, *Democracy in America*, pp. 340-63

#### August 30: The Life of Frederick Douglass

Frederick Douglass, *Life of Frederick Douglass*, Chapters 1-11 and Appendix

#### September 1: Slavery and the Constitution

William Lloyd Garrison, "On the Constitution and the Union" (CP)  
Frederick Douglass, "The Meaning of the Fourth of July for the Negro" (CP)  
Frederick Douglass, "The Constitution of the United States: Is It Pro-Slavery or Anti-Slavery?" (CP)

## **September 6: Slavery and the Constitution (continued)**

John C. Calhoun, Speech on the Oregon Bill (CP)  
Abraham Lincoln, Peoria Speech (CP)  
Stephen A. Douglas, Springfield Speech (CP)  
Alexander Stephens, “Cornerstone Speech” (CP)

## **September 8: Lincoln as Statesman**

Lincoln, First Inaugural (CP)  
Lincoln, Emancipation Proclamation (CP)  
Lincoln, Gettysburg Address (CP)  
Lincoln, Second Inaugural (CP)  
Frederick Douglass, “Oration in Memory of Abraham Lincoln” (CP)  
W.E.B. Du Bois, “Abraham Lincoln” (CP)  
W.E.B. Du Bois, “Again, Lincoln” (CP)

## **September 13: Reconstruction**

U.S. Constitution, Amendments 13-15 (in *The Federalist Papers*, pp. 561-63)  
W.E.B. Du Bois, “Of the Dawn of Freedom” (CP)  
Booker T. Washington, *Up From Slavery*, pp. 1-30, 38-50, 51-85

## **September 15: Washington vs. Du Bois**

Booker T. Washington, *Up From Slavery*, pp. 105-115  
W.E.B. Du Bois, “Of Mr. Booker T. Washington and Others” (CP)  
W.E.B. Du Bois, “Of the Training of Black Men” (CP)  
Booker T. Washington, “The Intellectuals and the Boston Mob” (CP)

## **September 20: The Civil Rights Era**

Martin Luther King, “Letter from Birmingham Jail” (CP)  
Martin Luther King, “I Have a Dream” (CP)  
Malcolm X, “The Ballot or the Bullet” (CP)

## **September 22: MIDTERM EXAM (during class time)**

## **September 27: The Extended Republic**

Articles of Confederation (pp. 533-41)  
U.S. Constitution, Title and Preamble (p. 542)  
Anti-Federalists on the Problem of an Extended Republic (CP)  
Publius, *Federalist Papers*, Nos. 1, 9, and 10

## **September 29: Federalism**

U.S. Constitution, Article I, Section 8 (pp. 546-48)

Anti-Federalists on the Threats to Federalism Under the Constitution (CP)

Publius, Nos. 39 and 46

## **October 4: The Separation of Powers**

Publius, Nos. 47-51

Anti-Federalists on the Separation of Powers (CP)

## **October 6: The Legislature**

U.S. Constitution, Article I (pp. 542-49)

Anti-Federalists on the Legislative Branch (CP)

Publius, Nos. 52-53, 55, 57, 62-63

## **October 11: The Executive**

U.S. Constitution, Article II (pp. 549-52)

Publius, Nos. 69-70

Anti-Federalists on the Executive Branch (CP)

Thomas Jefferson, Letter to John B. Colvin (CP)

Abraham Lincoln, Letter to Albert G. Hodges (CP)

Richard Nixon, Interview with David Frost (CP)

## **October 18: The Judiciary**

U.S. Constitution, Articles III-IV and VI (pp. 552-56)

Publius, No. 78

*Marbury v. Madison* (CP)

Anti-Federalists on the Judicial Branch (CP)

Thomas Jefferson on the Judicial Branch (CP)

*Cooper v. Aaron* (CP)

Edwin Meese, "The Law of the Constitution" (CP)

## **October 20: The Bill of Rights**

Virginia Declaration of Rights (CP)

Publius, No. 84 (pp. 509-16 only)

Anti-Federalists on the Need for a Bill of Rights (CP)

James Madison, Speech to Congress on the Bill of Rights (CP)

U.S. Bill of Rights (pp. 558-60)

## **October 25: Constitutional Imperfection and Change**

Benjamin Franklin, Closing Speech at the Constitutional Convention (CP)  
U.S. Constitution, Article V (p. 555)  
Publius, No. 85  
Jefferson, “The Earth Belongs to the Living” (CP)  
Madison, Response to Jefferson (CP)  
Jefferson, Letter to Samuel Kercheval (CP)  
Franklin D. Roosevelt, “The Second Bill of Rights” (CP)

## **October 27: Constitutional Interpretation in Theory**

Antonin Scalia, “Judicial Adherence to the Text of Our Basic Law” (CP)  
David Strauss, “The Living Constitution” (CP)  
Adrian Vermeule, “Beyond Originalism” (CP)

## **November 1: Constitutional Interpretation in Practice**

*Lawrence v. Texas* (CP)  
*Roper v. Simmons* (CP)  
*Obergefell v. Hodges* (CP)

## **November 3: Tocqueville, America’s Puritan Origins, and the Democratic Social State**

Tocqueville, *Democracy in America*, pp. 9-20, 31-47, 50-56

## **November 8: Democratic Government in America**

Tocqueville, pp. 56-60, 62-70, 87-98, 151-63, 196-201

## **November 10: NO CLASS**

## **November 15: Tyranny of the Majority and Religion in America**

Tocqueville, pp. 246-56, 290-301, 442-49

## **November 17: Individualism and Materialism**

Tocqueville, pp. 503-8, 509-17, 525-30, 530-38, 542-46

## **November 22: NO CLASS (Thanksgiving Break)**

## **November 24: NO CLASS (Thanksgiving Break)**

## **November 29: The Future of Democracy**

Tocqueville, pp. 555-58, 671-78, 690-705

**December 1: Review and Conclusion**

No readings assigned

**December 9: FINAL EXAM (3.30pm-5.30pm)**