

Political Science 180FS: The Nature of Freedom in Political Organizations

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Class Room: Gross Hall 111
Class Time: Tue/Thu 1:25-2:40pm
Office Hours: Tuesday 3-4pm
Wednesday 11am-noon

COURSE OVERVIEW

In his essay on the "Origin of Government," David Hume famously argued that "in all governments, there is a perpetual struggle, open or secret, between Authority and Liberty." In many societies, a central institution that is intended to regulate this struggle is the constitution: A set of principles that establishes the machinery of government, while also providing for limits on the use of political power, and articulating the rights of citizens.

In this class, we will study how constitutions achieve these purposes. We begin by thinking about the need for social order, and the role of organized political power in its creation. We will explore various forms of social order, and the manner in which organized political power is established. We then move to a more detailed study of constitutionalism: How *should* constitutions be designed? And how are they *actually* created? Why are constitutions important, and what consequences do they have for economic and political performance? Finally, we will consider constitutional enforcement: Why are some constitutions effective, while others fail?

By the end of the semester, you will have developed a deeper understanding of the central role of constitutions in establishing effective government and protecting the liberty of citizens. You will also have gained a new analytical perspective and skills that will allow you to think about politics from a more nuanced and critical vantage point.

TEACHING ASSISTANT

Kristen Renberg will serve as teaching assistant for this course. In addition to me, you can contact her with questions, to get help or pointers for your papers, etc.. Kristen will hold office hours on Mondays from 9-11am in the SSRI lounge in Gross Hall. *Please make every effort to limit your requests for help to office hours.* You can reach her via email at kristen.renberg@duke.edu.

REQUIRED READINGS

The readings for this class consist largely of book chapters and papers. Except for a few, they are available electronically (including the Sakai site for this course). We will read multiple chapters from the following book, and these are not available electronically. You can purchase this book

through the bookstore or (usually at a lower price, especially for used copies) from various online sellers. If you do not purchase it, make sure that you have access to a copy.

- **Peter Leeson. 2009. The Invisible Hook: The Hidden Economics of Pirates. Princeton: Princeton University Press.**

The reading assignments listed on the syllabus below are preliminary. I reserve the right to add or exchange readings along the way, depending on the directions that our class discussions take.

GRADES AND EVALUATION

This is a seminar. This means that class will be conducted in a colloquium style. Because of this format, it is essential that every student has completed the assigned reading before class and is ready to participate in discussion. To ensure this, you will be required to answer a short quiz about the readings at the beginning of ten randomly selected seminars. Obviously, you should not miss class unless there are exceptional circumstances that keep you from being there.

Your grade will be based on the following:

Two Midterm Exams (40 percent of your course grade): Each midterm exam will count for 20 percent of your course grade. The first exam will be on October 19 in class; the second exam will be on the last day of class, December 7. If you miss one or both of the midterm exams, and have not made alternative arrangements prior to the exam with me, you will be given a make-up exam during the regularly scheduled final exam period for this class on Saturday, December 16, 2-5pm. Please plan accordingly.

Short Paper (20 percent of your course grade): Your short paper is due on Tuesday, 10/31. In this paper (approximately 3-4 pages, 12 pt. font, regular margins, double-spaced), you must develop one argument that engages the material we have completed. Do not simply summarize the reading, but advance a particular argument, explain it clearly, and defend it using the readings as evidence. I will provide you with written comments and a grade on your paper. If you so choose, you may rewrite the paper, and turn in a final version for a final grade (11/21). A note of caution: Writing well is hard. You need to practice – and that includes rewriting and editing. Take the time to do it, and do it early and often. It is one of the most important things you can learn in college.

Group presentation/Final paper (25 percent; 5 percent presentation, 20 percent paper): See below for information on the presentation/paper. Your presentations will take place during the next-to-last week of classes (November 28 and 30), and your paper will be due on the last day of class, December 7.

Class Participation and homework (15 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. You should come to class prepared to participate. *Note: If you attend class regularly, but do not actively participate on a regular basis, you will receive an 85 for participation. Your participation grade will go up as you are more actively engaged in class. It will go down if you are conspicuously absent.*

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

CONSTITUTION-MAKING PROJECT/FINAL PAPER

Over the course of the semester, you will complete an independent research project that combines a group component and an individual component. The purpose of this project is for you to learn about and analyze one specific process of constitution-making. During the first two weeks of the semester, I will assign you to one of four groups (about 4 students per group). Along with the other members of your group, you must identify an instance of constitution-making over the last fifty years that is of interest to you. Different groups may not work on the same episode. Get in touch with me as soon as you have settled on a case for my approval.

The first part of your project, which will be a group effort, is to research the historical circumstances surrounding your constitution. What were the circumstances that led to this instance of constitution-making? Who were the actors involved? How was the constitution written and adopted? What are the central features of the constitution (machinery of government and rights provisions)? As a group, you must develop a 20-minute class presentation to report your findings.

The second part of the project will be to use the background material you have gathered to write a short paper (5 pages) that examines your constitution-making process through an analytical lens. Specifically, you will have to apply one or more of the theories of constitutions and constitution-making we will study over the course of the semester, and explain to what extent these theories help us to understand your particular case, or what aspects of your case highlight limitations of the arguments we have encountered. Your paper is due on the last day of class, December 7.

To help you get started, you may want to consult the website of the **Comparative Constitutions Project** (<http://comparativeconstitutionsproject.org>), and in particular the **Constitute Website** (<https://www.constituteproject.org/?lang=en>), which provides rich data on constitutions around the world.

ACADEMIC DISHONESTY

Students and faculty at Duke are governed by the **Duke Community Standard**, and academic dishonesty will not be tolerated. If I suspect that a student has attempted to represent someone else's work as their own, or to cheat in any other manner on an exam or a written assignment, I will refer the case to the Office of Student Conduct in accordance with university policy. If a violation of the academic integrity policy is found to have occurred, the minimum penalty will be a zero (0) on the assignment/exam in question. If you have any questions about plagiarism and proper citation methods, please consult the **Duke Tutorial on Plagiarism**.

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.

APPROXIMATE SEMESTER SCHEDULE

1. Section I: The need for social order, and its origins

Week 1 (8/29-8/31):

Reading:

- Hobbes, Leviathan, Introduction, Chapters 11, 13, 14, 15, 17, and 18

Week 2 (9/5-9/7):

Reading:

- Hume, Essays, “Of the Original Contract”
- Hume, Essays, “Of the Origin of Government”
- Hume, Treatise of Human Nature, Book III, Part II, Section II “Of the Origin of Justice and Property”
- Hume, Treatise of Human Nature, Book III, Part II, Section VII “Of the Origin of Government”

Week 3 (9/12-9/14):

Reading:

- Peter Leeson, The Invisible Hook, Princeton: Princeton University Press. Chapters 1-3.

Week 4 (9/19-9/21):

Reading:

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

Week 5 (9/26-9/28):

Reading:

- David Skarbek. 2011. “Governance and Prison Gangs.” *American Political Science Review* 105: 702-716.
- David Skarbek. 2016. “Covenants Without the Sword? Comparing Prison Self-Governance Globally.” *American Political Science Review* 110: 845-862.

2. Constitutionalism: Normative Foundations

Week 6 (10/3-10/5):

Reading:

- Jon Elster. 1988. "Introduction." In J. Elster and R. Slagstad (eds.). Constitutionalism and Democracy. Cambridge: Cambridge University Press.
- Dennis Mueller, Constitutional Democracy, Oxford: Oxford University Press. Chapters 1-5.

Week 7 (10/10-10/12 - No class on 10/10):

Reading:

- James Buchanan "The Domain of Constitutional Economics," *Constitutional Political Economy* 1: 1-18.
- James Buchanan and Gordon Tullock, The Calculus of Consent, Ann Arbor: University of Michigan Press. Chapter 6.

Week 8 (10/17-10/19): Midterm Exam

- Catch-up and review on Tuesday
- In-class midterm exam on Thursday, 10/19

3. Constitutions: Do they matter, and how are they made?

Week 9 (10/24-10/26):

Reading:

- Donald Lutz. 1998. "The Iroquois Confederation Constitution: An Analysis." *Publius* 28: 99-127.
- Cavin C. Jillson and Cecil L. Eubanks. 1984. "The Political Structure of Constitution-Making: The Federal Convention of 1787." *American Journal of Political Science* 28: 435-458.

Week 10 (10/31-11/2):

- Short paper due on Tuesday, 10/31.

Reading:

- Jon Elster. 1994. "The impact of constitutions on economic performance." *The World Bank Economic Review* 8: 209-226.

Week 11 (11/7-11/9 - No class on 11/7):

Reading:

- Jon Elster. 1995. "Forces and Mechanisms in the Constitution-Making Process," *Duke Law Journal* 45: 364-396.
- Tom Ginsburg, Zachary Elkins, and Justin Blount. 2009. "Does the Process of Constitution-Making Matter?" *Annual Review of Law and Social Science* 5: 201-23.

4. Constitutional Enforcement

Week 12 (11/14-11/16):

Reading:

- Barry Weingast. 2016. "Capitalism, Democracy, and Countermajoritarian Institutions." *Supreme Court Economic Review* 23: 255-77.

Week 13 (11/21-11/23 - No Class on 11/23):

- Short paper rewrite due on Tuesday, 11/21

Reading:

- Georg Vanberg. 2011. "Substance vs. Procedure: Constitutional Enforcement and Constitutional Choice." *Journal of Economic Behavior and Organization*. 80: 309-318.

Week 14 (11/28-11/30):

- Student Presentations

Week 15 (12/5-12/7): Exam

- Catch-up and review on Tuesday
- In-class exam on Thursday, 12/7