

# AMERICAN CONSTITUTIONAL DEVELOPMENT

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## PSC 2302

Baylor University Department of Political Science

Spring 2013

MWF 10:10-11:00, Bennett Auditorium

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Office Hours: W 11:30-2:30 or gladly by appointment

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## COURSE DESCRIPTION & OBJECTIVES

One core question will guide our time—our project—together this semester: *How do we create a good society?*

It's a nice question, right? Theoretical. Open-ended. Subjective. The kind of thing the hipsters and professors are supposed to talk about in the pubs and coffee houses of college towns. Our question to *think* about; someone else's question to *figure out*. Right?

Well, maybe, but I think this is a question that we—you and I—*have* to start answering. We live, after all, in a society where a guy rolls up to a school with his bushmaster assault rifle and massacres 20 of our innocent first graders. We live in a society where about a quarter of our children are raised in poverty—something that's completely out of their control but which constitutes the single biggest threat to their long-term livelihood. Two hours down the road this fall, we, our state, in the name of “justice,” executed a mentally retarded man—someone who sucked his thumb and didn't know his left from his right. Strapped him to the table and killed him because the rules we created told us to do that.

Is *this* a good society? Don't get me wrong—there's plenty of good in our society. But there's plenty of stuff that makes me want to shake my head at my parents' generation: *THIS* is what you left us? *THIS* is what *YOU* created?

So I ask the question again: *How do we create a good society?*

I'm going to start with an assumption that I need you to share this semester, and it's this: *We live in a world with a lot of problems, and it won't get better unless we make it better.* That's the whole reason I'm here. That's why I'm in this profession and why I teach this course. And I think that's part of why they make you take this course. Either way, it's what's going to drive us this semester and, I hope, for the rest of our lives.

So, if we're going to take a stab at answering that Big Bad Question this semester, there are a few things we have to do. We must first ask what a good society is: Is it a safe one? Is it a free one? Are those things even compatible? And surely, isn't there other stuff we ought to consider?

But notice I said *create* a good society. How do we do that? Is it something we can tinker with or engineer, manufacturing the right combination of gears and levers and, *abracadabra*, it appears? This is a course in political *science*, after all—shouldn't the laws of science apply like in physics or chemistry lab?

As we begin to consider how to create a good society, we certainly won't answer the whole thing. Our focus this semester is going to be on the *rules* that provide our societal framework. Our starting place is the United States Constitution, the document that tells us some of the most important things about our society: who makes the rules; how they make them; and what sorts of rules are basically off limits from rule-makers' control—things like our individual freedom to believe what we want to believe, say way what we want to say, and be treated fairly and equally by the rules and their enforcers. This semester we will study the Constitution's text, its history, its development, and its interpretation. We'll familiarize ourselves with each of these things.

But as we consider our Constitution, we're also going to question it. This is not *just* a course about the Constitution, and you're not here simply to memorize information. We have a lot of other important stuff to do, too.

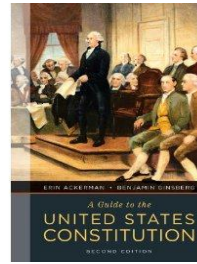
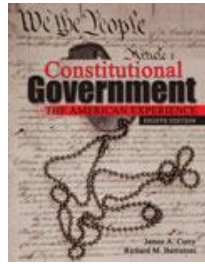
We hear repeatedly about how young people are only interested in themselves, about how they don't participate in civic life, and this is going to lead to our demise. What they (people of your parents' generation and older) are really saying is that you don't care about a certain kind of politics. If that's you, if you're someone who would say "I'm not a political person," or "I don't like politics," then frankly, I don't half blame you. What you probably mean is that you don't like all the partisan bickering, the deceitfulness of elections, the fact that people don't know how to talk about politics without being divisive (and Facebook has only made this worse). But those of you who would say "I don't like politics" probably don't mean "I don't care what happens to me or my family or my neighbors or the kids in this country who go hungry." My guess is that most of you care about the society you live in—the one that, as adults, you now have to own and will one day raise your kids in. If we have to own it, we might as well think about how to make it good. And that, my friends, is politics.

So yeah, what we commonly know as "politics" is full of some broken stuff (and some pretty good stuff, too, I should say). Either way, it's what we inherited, but who says we have to live with it? So let's reimagine it. Let's start with the assumption that the Constitution—the one we're going to spend so much time studying—is not sacred. The people who wrote it sure didn't think so, so why should we? Instead, let's look at it critically. How does the framework it creates succeed in helping us toward the kind of society we want? What are its shortcomings? How could we improve it? What could we add? What could we take away? What do we need to reimagine altogether? Remember, there's a lot of broken stuff, and we have to make it better.

As we do that, there are a few things I want us to achieve. I hope we will learn to:

1. Practice the arts of imagining possibilities, creating questions, and working toward solutions.
2. Fully engage a diversity of ideas, especially some we disagree with.
3. Change our minds once in a while, which involves relinquishing some of our own intellectual stubbornness and preconceived notions about what is "right."
4. Talk about difficult issues and even disagree, learning to how to do so with civility, maturity, and friendliness.
5. Understand that many political and legal issues are not black and white, and there are often more than two sides to difficult debates.

## REQUIRED MATERIALS



James A. Curry & Richard M. Battistoni, *Constitutional Government: The American Experience*, Eighth Edition (Dubuque, IA: Kendall Hunt, 2011). Referred to hereafter as “CG.”

Erin Ackerman & Benjamin Ginsberg, *A Guide to the United States Constitution*, second edition (New York: W.W. Norton, 2011). Referred to hereafter as “Guide.”

A Turning Technologies Response Card (or smartphone app), also known as a “clicker.”

Various readings available under “Course Documents” on Blackboard.

## COURSE PRACTICES & POLICIES

1. **Communication:** One of life’s greatest joys for me is getting to know students. That’s especially rich in a class like this, where students come from all corners of the university. But the class is big, and that presents us with some difficulties. The best way for us to get to know each other, and for you to receive help should you need it, is for you to come to my office or talk to me before or after class.

If you should ever need to email about anything, please contact the teaching assistant assigned to you. Students whose last names start with **A-Le**, please contact Kimberly. Students whose last names start with **Li-Z**, please contact James.

2. **Cell Phones & Internet:** Here’s my practice on these things: be mature about them and we won’t have issues. Over the years I’ve tried my hand at playing bad cop with strict policies, but that’s not fun for me and it’s not fun for you. It’s also a little foolish: these devices are full of distractions, sure, but they’re also exceptionally useful tools for learning. So here’s the deal: as long as you’re not distracting someone else with inappropriate internet or cell phone use, you have some freedom here. Now, if your cell phone rings, I might answer it for you or ask you to stand up and dance to the ring tone. Or as I walk around, if Facebook is open I might help you make a comment to a friend. But as a general statement, I’m going to trust you to be responsible as long as you’re not distracting. **The policy is this:** the minute *one person* comes to me to let me know that someone’s internet or cell phone use is distracting (i.e., they always have Facebook or distracting websites open, they constantly text, or something to that effect), we put the kibosh on these things in class. The tips can be anonymous, and it only takes one. Just always keep in mind that your computer and phone can distract those seated around you—and there are *a lot* of people around you who have paid money to be here and who want to learn. I’ve used this policy before in this class, and it worked out well.

3. **Attendance.** Attendance will be taken each class using clickers. My teaching assistants will also note attendance manually, so if you are going to be absent, do not send your clicker with another student. **Such an action is a violation of the University Honor Code** (see #4 below). Also, with the exception of emergencies or my prior permission, **leaving class early constitutes an absence.** Pursuant to the policies of the College of Arts & Sciences, a student must attend at least 75% of all scheduled class meetings to earn course credit. Any student who does not meet this minimum standard will automatically receive a grade of “F” in the course. Any University-related activity necessitating an absence from class shall count as an absence when determining whether a student has attended the required 75% of class meetings.
4. **Adherence to the Baylor University Honor Code.** A copy of the Baylor University Honor Code is available online, and students are expected to adhere to it and to conduct themselves with honesty and integrity. Talk with me if you are confused about citation practices or other research standards. Make sure you understand not only what counts as plagiarism and cheating, but also how to avoid engaging in these practices.

If you violate the Honor Code, be aware that your violation will be reported to the Office of Academic Integrity and become part of your student record. Understand that penalties resulting from dishonest conduct can range from failure of the assignment to immediate expulsion from the university. I reserve the right to give you an “F” in the course for *any act* in violation of the University Honor Code.

### ASSIGNMENTS & GRADES

1. **Exams (200 points).** You will take two exams in this course, a midterm and a final, each worth 100 points. The midterm is tentatively set for **March 8**. The final has been scheduled by the university for **Monday, May 13 at 9:00 AM**. As the time approaches, we will talk more specifically about the content and structure of the exams. Exams may be re-scheduled only for a student who has a documented excuse recognized by the University (i.e., chaplain’s excuse verifying a family or similar emergency; medical excuse from the Health Clinic, a local doctor or the emergency room; or official notice of a participation in University business). Make-up exams will differ from in-class exams and may consist of essay and short answer questions.
2. **Constitution Mini-Exams (40 points).** During Week Two of the semester you will take two mini-exams on the Constitution, each worth 20 points. Preparation for these mini-exams will occur solely outside of class, and you will take the mini-exams on Blackboard ***outside of class***. You will carefully read and study sections of Ackerman & Ginsberg’s *Guide to the United States Constitution*. The mini-exams will consist of multiple-choice questions about select sections of the US Constitution. Dates and subjects for these mini-exams are as follows:
  - Mini-exam #1 covers pp. 3-31 and is to be completed before 11:59 pm on Tuesday, January 22.
  - Mini-exam #2 covers pp. 35-61 and is to be completed before 11:59 pm on Friday, January 25.
3. **Quizzes (100 points).** You will take twenty quizzes over the course of the semester worth 5 points each. Quizzes will be taken in class using clickers and will cover the reading/online lecture assignments due on the day of the quiz. *There are no make-up quizzes*, but don’t fret. Although I’m officially calling this twenty quizzes worth a total of 100 points, I will actually give twenty-one quizzes over the course of the semester. What this means is that you have the opportunity to earn up to 105 points, but the grade calculation is out of 100. Think of it as an opportunity for five extra

credit points if you attend all quizzes. This will help account for an absence or unexpected poor performance.

4. **Law & Society Assignments (90 points):** Early in the semester you will be assigned to a group of 10 students. Nine times during the semester your group will meet together during class time (at the location of your choosing) to complete an assignment about the topic of the week. Remember that throughout the semester we'll be guided by the question *How do we create a good society?* This is where you get to figure that out. Each of the nine assignments will focus on a particular area addressed (or perhaps not addressed) by the US Constitution. Your group will question whether the US Constitution addresses that particular issue in the best way, or whether there might be a better way for laws to help guide us toward a good society. Guided by a prompt each week, you will essentially work together to create laws and offer a rationale for those laws. Each group will create its own system for making decisions and completing the work, and the assignment will be due to your group's assigned teaching assistant via email before the next class period. This means that the utmost organization and preparation will be required for each session. Each student must pull his or her weight and contribute to each assignment. At the end of the semester (or earlier if someone is especially problematic as a group member), group members will assess one another's contribution. Students whose contributions were lacking will have their grades reduced accordingly.
5. **Extra Credit.** I will offer limited extra credit throughout the semester, but please keep in mind that it is exactly what the name suggests: *extra*. I will talk further with you about the specific opportunities available, but it is up to you to complete them. In order to be evenhanded and fair in a class this large, I cannot accommodate any requests at the end of the semester for extra credit. *No final grades will be adjusted, even those that are borderline.* Take advantage of the opportunities as they are presented to you.

**Grading Breakdown:**

Constitution Mini-Exams: 2 @ 20 points each = 40 points

Midterm: 100 points

Final Exam: 100 points

Quizzes: 20 @ 5 points each = 100 points

Law & Society Assignments: 9 @ 10 points each = 90 points

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Total: 430 points

**Grading Scale:**

385-430 points = A

372-384 points = B+

342-371 points = B

329-341 points = C+

299-328 points = C

256-298 points = D

255 points or below = F

## COURSE SCHEDULE

Please note that assignments are subject to change. Always check Blackboard for the latest version.

CG= *Congressional Government: The American Experience*

Guide= *A Guide to the United States Constitution*

Blackboard = Reading under the “Course Documents” heading in Blackboard

### Part I: Power

#### Week One (January 14, 16, 18): Course Introduction & Events Leading to the Constitution

**Monday:**

No reading

**Wednesday:**

CG pp. 36-50

Declaration of Independence (*Guide* pp. 63-67)

**Friday:**

Andrew Burstein & Nancy Isenberg, “Is America More Exceptional Today than in 1776?” (*Salon*, linked on Blackboard)

Flora Nicholas, “The Declaration of Independence 2012 (As Written of, by, and for Women)” (*The Huffington Post*, linked on Blackboard)

#### Week Two (January 21, 23, 25): Structuring a Government

**Monday:** No Class for MLK holiday

No reading, but please consider doing something to serve others

**Mini-Exam #1 Due Tuesday @ 11:59 pm** (use *Guide* pp. 3-31; complete the mini-exam on Blackboard)

**Wednesday:**

Edward S. Corwin & J.W. Pelatson, “Basic Features of the Constitution” (Blackboard)

CG pp. 90-99

**Friday:**

Thurgood Marshall, “The Constitution’s Bicentennial: Commemorating the Wrong Document?” (Blackboard)

**Mini-Exam #2 Due Friday @ 11:59 pm** (use *Guide* pp. 35-61; complete the mini-exam on Blackboard)

#### Week Three (January 28, 30, February 1): Judicial Power

**Monday:**

Mason & Stephenson, “Jurisdiction and Organization of the Federal Courts” (Blackboard)

*Marbury v. Madison* (Blackboard)

**Wednesday:**

“A History of the Supreme Court” (Findlaw.com, linked on Blackboard)

Eugene V. Rostow, “The Democratic Character of Judicial Review” (Blackboard)

Prepare for Quiz #1

**Friday:**

Prepare for Law & Society Assignment #1: Group Organization & Structure of Government Part I

**Week Four (February 4, 6, 8): What's Off-Limits? The Bill of Rights, Incorporation, & Scrutiny of the Law**

**Monday:**

CG pp. 259-274

Lundmark, *Power & Rights in US Constitutional Law* pp. 112-119 (Blackboard)

Watch Online Lecture

Prepare for Quiz #2

**Wednesday:**

Roger K. Newman, "The Bill of Rights" (*Salon*, linked on Blackboard)

Emmett Rensin, "Founding Prophets" (*The Huffington Post*, linked on Blackboard)

Prepare for Quiz #3

**Friday:**

Prepare for Law & Society Assignment #1: Structure of Government Part II

**Part II: Liberty**

**Week Five (February 11, 13, 15): Church & State**

**Monday:**

CG pp. 438-458 (starting at "The Bill of Rights..." and stopping at "Taxation & Religion"), 462-470

Watch Online Lecture

Prepare for Quiz #4

**Wednesday:**

Andrew Hogue, excerpt from *Stumping God* (linked on Blackboard)

Adam Hamilton, "Put God Back in Public Schools?" (*The Huffington Post*, linked on Blackboard)

Prepare for Quiz #5

**Friday:**

Prepare for Law & Society Assignment #2: Managing Religious Diversity

**Week Six (February 18, 20, 22): Freedom of Expression**

**Monday:**

CG pp. 357-366 (starting at "Political Speech...")

CG pp. 381-386 (starting at "Adult Entertainment...")

Watch Online Lecture

Prepare for Quiz #6

**Wednesday:**

Sohrab Ahmari, "How Free Speech Died on Campus" (Wall Street Journal, linked on Blackboard)

Prepare for Quiz #7

**Friday:**

Prepare for Law & Society Assignment #3: Expression of Ideas

**Week Seven (February 25, 27, March 1): Guns**

**Monday:**

Watch Online Lecture

Prepare for Quiz #8

**Wednesday:**

Jonathan Stray, "Gun Violence in America: The 13 Key Questions (With 13 Concise Answers)" (*The Atlantic*, linked on Blackboard)  
Prepare for Quiz #9

**Friday:**

Prepare for Law & Society Assignment #4: Guns & Violence

**Week Eight (March 4, 6, 8): Criminal Justice/Midterm****Monday:**

Mason & Stephenson, "Criminal Justice" (Blackboard)  
Watch Online Lecture  
Prepare for Quiz #10

**Wednesday:**

No new reading assignment; spend time preparing for the midterm  
No Quiz

**Friday:**

\*\*Midterm\*\*

**Week Nine (March 11, 13, 15): Spring Break**

No assignments over spring break

**Week Ten (March 18, 20, 22): Limits of Punishment****Monday:**

CG pp. 331-338  
Watch Online Lecture  
Prepare for Quiz #11

**Wednesday:**

Andrew Cohen, "Of Mice & Men: The Execution of Marvin Wilson" (*The Atlantic*, linked on Blackboard)  
Prepare for Quiz #12

**Friday:**

No Assignments

**Week Eleven (March 25, 27, 29): Privacy Rights: Sex, Reproduction, and Abortion****Monday:**

Prepare for Law & Society Assignment #5: Crime & Punishment

**Wednesday:**

CG pp. 280-291 (Starting at "The Right to Privacy," stopping at "Fundamental Rights of Parents")  
Watch Online Lecture  
Prepare for Quiz #13

**Friday: No Class (Good Friday)**

No Assignments



**Week Twelve (April 1, 3, 5): Privacy Rights (cont.)**

**Monday:** No Class (Easter Holiday)

No Assignments

**Wednesday:**

Listen to “Pro-Life, Pro-Choice, Pro-Dialogue: The Civil Conversations Project” with David Gushee, Frances Kissling, and Krista Tippett (Blackboard, also available as a podcast in the iTunes Store under the NPR show *On Being*) (51 minutes)

Prepare for Quiz #14

**Friday:**

Prepare for Law & Society Assignment #6: Sex & Reproductive Rights

### Part III: Equality

**Week Thirteen (April 8, 10, 12): Race in America**

**Monday:**

CG pp. 199-221

Watch Online Lecture

Prepare for Quiz #15

**Wednesday:**

Reading TBA

*Brown v. Board of Education* (Blackboard)

Sarah Garland, “Was ‘Brown v. Board’ a Failure?” (*The Atlantic*, linked on Blackboard)

Prepare for Quiz #16

**Friday:**

Andrew Romano & Alison Samuels, “Is Obama Making it Worse?” (*Newsweek*, linked on Blackboard)

**Week Fourteen (April 15, 17, 19): Race in America**

**Monday:**

CG pp. 230-238 (stopping at the end of Brief 10.2)

Watch Online Lecture

Prepare for Quiz #17

**Wednesday:**

Cornel West, “Affirmative Action in Context” (Blackboard)

Prepare for Quiz #18

**Friday:**

Prepare for Law & Society Assignment #7

**Week Fifteen (April 22, 24, 26): Other Equality Issues: Gender, Gay Rights, Age, & Disability**

**Monday:**

CG pp. 238-245, 247-250

Watch Online Lecture

Prepare for Quiz # 19

**Wednesday:**

Sandra Day O'Connor, "Women and the Constitution: A Bicentennial Perspective" (Blackboard)  
Prepare for Quiz #20

**Friday:**

Prepare for Law & Society Assignment #8

**Week Sixteen (April 29, May 1, 3): Is the Law Enough?**

**Monday:**

Steven B. Smith, "In Defense of Politics" (*National Affairs*, linked on Blackboard)  
Letter from Birmingham Jail (Blackboard)  
Prepare for Quiz #21

**Wednesday:**

Prepare for Law & Society Assignment #9

**Friday:**

No Assignment