

American Constitutional Law
Samuel Galloway, Ph.D.
Political Science
Tuesday and Friday: 12.30 – 2.10
Office Hours: T/F, 2.30 – 4.00
Social Science 1032

Contents:

- | | |
|------------------------------------|-------------------------------------|
| 1. Course Description | 7. Writing Assignments |
| 2. Course Objective | a. First Paper |
| 3. Required and Supplemental Texts | b. Final Paper |
| 4. Grading | 8. Intellectual Honesty/Plagiarism |
| 5. Attendance and Participation | 9. Respectful Discourse and Conduct |
| a. Absences | a. Mask Policy |
| 6. Perusall | 10. Accessibility Statement |
| | 11. Course Schedule |

1. Course Description:

In this class, we will explore the American Constitution as a political document. To do so, we will begin by examining its prehistory in the Articles of Confederation, formulation in the Constitutional Convention debates, the popular audience arguments for and against its ratification known as the Federalist and Anti-Federalist Papers, as well as its first ten Amendments known as the Bill of Rights. We will track, in particular, how the Constitution is the effect of a process of compromise in order to ask after the constitutive exclusions that structure the founding law and its uneven protection of civil liberties. However, in the second half of class, we will consider how, with the passage of the first raft of civil rights amendments, the 13th, 14th, and 15th Amendments following years of bloody and vicious civil war, the Constitution *also* becomes the guarantor of civil rights for minority citizens. Thus, we will attend to this contradiction embedded in the law in order to track its effects on the efficacy of the law in preserving the civil rights of minority citizens. In particular, we will examine Fifteenth Amendment guarantees of voting rights with an eye toward post-2020 voter suppression and subversion laws that are being passed, as well as recent Supreme Court rulings on the Voting Rights Act. Discussion will consider topics such as white supremacy, voting rights, and the politics of Constitutional interpretation and amendment.

2. Course Objectives:

Completion of this course will provide an introduction to the historical origins of the American Constitution and its uneven and contradictory development as the legal guarantor of civil rights and liberties. In so doing, it will equip students with a theoretical and conceptual basis for analyzing the role the American Constitution in shaping the horizon of American politics, historically and in the present. It will also provide a survey of common political science and jurisprudential approaches to the study of constitutional law. Completion will also grant a sustained reflection on recent political events, namely: the attack on voting rights. Finally, skills such as critical reading, analytical writing, and collaborative discussion will be reinforced and expanded.

American Constitutional Law: Compromise, Critique, Contestation
POL3050 |T/F 4.30 – 6.10
Prof. Sam Galloway

3. Required Texts:

- *The Essential Federalist and Anti-Federalist Papers*, Hackett Publishing Company, Inc. (September 15, 2003) ISBN-10: 0872206556, ISBN-13: 978-0872206557
- *The United States Constitution: 200 Years of Anti-federalist, Abolitionist, Feminist, Muckraking, Progressive, and Especially Socialist Criticism* NYU Press ISBN-10 0814761704; ISBN-13 9780814761700

All other required readings and materials are available on Moodle, through Perusall.

Optional Resources:

“Democracy Now!” www.DemocracyNow.Org. Weekday 8am live broadcast, archived by 9am.

4. Grading:

Attendance & Class Participation: 25%.

Final Paper: 30% (see below for details).

Perusall: 25% (see below for details).

First Paper: 20% (see below for details).

5. Attendance and Class Participation:

This class will be a discussion-driven exploration of our topics of study. Your attendance and participation is essential to the success of this experiment in learning.

Attendance means being present, having read the assigned course materials that you also have with you to reference in class.

For those attending via Zoom, it means being present with your camera on, in a quiet, well-lit room, ready to verbally communicate. If, for some reason, you are unable to be present with your camera on, ready to verbally communicate, you must contact me in advance of class to explain why. If you are not able to be present with your camera on, ready to verbally communicate, this class may not be right for you.

Participation means verbal contributions to class discussion that refers us to a passage in the text, a concept or idea that is under discussion, and/or a question regarding the aforementioned. Zoom chat is not a place to conduct class discussion. You are expected to participate every class.

Absences

Now I know 18 - 22 year olds are not the most health conscious cohort - at least I wasn't at your age. However, now is the time to err on the side of caution. So, if you have a cough, runny nose, tickle in your throat, "allergies," or just feel "off," then **STAY HOME**. You will **NOT** be penalized for prioritizing the health and wellness of your peers.

I will already be hosting class in a hybrid manner for those who enrolled when class was slated to be taught remotely and the Zoom link will be easily accessible on the course Moodle page. Simply attend remotely via Zoom if you feel you may even have the hint of something resembling

illness. (Of course, being *sickening* is more than welcome, and you sld feel free to flaunt that in class to the nines.)

6. Perusall:

This class is a reading-intensive course where you are expected to come to class prepared to discuss the materials assigned for that class. Perusall is a tool that grades your reading and annotation of the assigned texts. You are graded on metrics that include length of time in the document, how many pages of the assigned text you read, how many annotations (underlines, comments) you make on the text, and whether or not you respond to the annotations of your peers. You are allowed to miss three (3) of the assigned readings before it negatively impacts your grade. For every missed reading after the three (3) excused missed readings, your grade will be deducted one 1/3 of a grade (A+ => A, A =>A-) from the Perusall percentage of your overall grade.

7 (a). First Paper—Critical Reconstruction of an Argument:

The first written assignment will be 750 – 1000 words in length (approximately 3-4 double-spaced, 12 point, Times New Roman font, **margins justified** pages). Papers either over or under this range will not receive full consideration. The goal of this essay is to reconstruct an argument encountered in the readings on ideology and to conclude with a critical evaluation of the argument thus reconstructed. The format of this essay is 75% reconstruction, 25% critical evaluation. To explain the argument here means to reconstruct the argument by clearly stating in your own words its explicit and implicit premises and conclusions. To evaluate the argument means to assess the validity of its premises as well as whether the conclusions follow from its premises. Specific paper prompts will be released in advance.

7 (b). Final Paper—Critical Construction of an Original Argument:

The objective of the final paper assignment is to provide students with the opportunity to conduct original research about an event of political protest of their choosing using the resources provided by the course. The final written assignment will 1750 – 2250 words in length (approximately 7 – 9 double-spaced, 12 point, Times New Roman font, and **margins justified** pages). Papers either over or under this range will not receive full consideration. The goal of this essay is to critically construct an original argument informed by engagement with readings in the class. Specific paper prompts will be released in advance.

8. Intellectual Honesty/Plagiarism:

Simply: *do not* plagiarize. If there are any questions whatsoever about the proper way to cite a source, please consult me, or refer to Charles Lipson's *How to Do Honest Work in College* (2004). Plagiarism will lead to automatic failure of the course and will be referred to the College administration for additional sanction.

9. Unwavering Expectations for Respectful Discourse and Conduct:

Under no circumstances will disrespectful discourse or conduct be welcome in our classroom. We will treat one another with respect, patience, and understanding. Learning inherently involves the risk of allowing knowledge to change your life, and this requires courage. We will all exercise an unwavering commitment to encouraging one another in this process.

Mask Policy

Simply put, a surgical, KN-95, or N-95 masks must be properly worn at all times, fully covering nose and mouth, and double masking, per CDC guidance, is strongly encouraged. There will be no food or drinks allowed in class. While I will not police non-compliance, nor will I needlessly expose myself to undue risk: I will simply walk out and, if necessary, the course will move to Zoom. If you anticipate that honoring this policy will be a problem for you, then this is not the right class for you to take at this time.

Please consult this video for how to properly wear a mask:

<https://www.youtube.com/watch?v=qNzXb-GmptM>

and this video for how to create a better seal, esp. to prevent fogging for those who wear glasses:

<https://www.youtube.com/watch?v=s3Y26UGulrI>

10. Accessibility Statement:

The Office of Disability Resources collaborates directly with students who identify documented disabilities to create accommodation plans, including testing accommodations, in order for students to access course content and validly demonstrate learning.

For those students who may require accommodations, please contact the Office of Disability Resources as soon as possible, 914-251-6035, ODR@purchase.edu (Student Services Building, #316A), www.purchase.edu/odr.

11. Schedule:

Week One: *The Constitution as a Political Document*

Tuesday, 8/31:

- Introduction: The Constitution as a Political Document.

Friday, 9/3:

- “The Articles of Confederation,” by Merrill Jensen in *The United States Constitution*, ed. Ollman & Birnbaum.

American Constitutional Law: Compromise, Critique, Contestation
POL3050 |T/F 4.30 – 6.10
Prof. Sam Galloway

Week Two: Drafting of the Constitution

Tuesday, 9/7:

- Phillips, Wendell, ed. *The Constitution: a Proslavery Compact*, pp. 11 - 41.

Friday, 9/10:

- “The Establishment of a National Union,” Louis M. Hacker, in *The United States Constitution*, ed. Ollman & Birnbaum, pp. 25 – 29.
- “The United States in the World-Economy,” John Agnew, in *The United States Constitution*, ed. Ollman & Birnbaum, pp. 29 – 33.
- “An Economic Interpretation of the Constitution,” Charles A. Beard in *The United States Constitution*, ed. Ollman & Birnbaum, pp. 39 – 59.

Week Three: Drafting of the Constitution, continued.

Tuesday, 9/14:

- Phillips, Wendell, ed. *The Constitution: a Proslavery Compact*, pp. 42 – 73.

Friday, 9/17:

- Du Bois, W. E. B., “Slavery and the Founding Fathers,” in *The United States Constitution*, ed. Ollman & Birnbaum, pp. 97 – 105.
- “The Voice of Madison,” Daniel De Leon, in *The United States Constitution*, ed. Ollman & Birnbaum, pp. 110 – 115.
- The 1787 Constitution.

Week Four: The Case for Ratification

Tuesday, 9/21:

- *The Essential Federalist and Anti-Federalist Papers*, Letters of Cato (4 and 5), Letters of Centinel (1), Letters of Brutus (6, 11, 12, 15) – 38 pages.

Friday, 9/24:

- Hamilton, Alexander; Madison, James; Jay, John. *The Essential Federalist and Anti-Federalist Papers* Nos. 1, 9, 10 (Union as Safeguard Against Faction), 15 (Defects of Present Confederation) – 21 pages.

Week Five: The Case for Ratification, continued.

Tuesday, 9/28:

- Hamilton, Alexander; Madison, James; Jay, John. *The Essential Federalist and Anti-Federalist Papers* Nos. 23 (An Energetic Government), 47 – 51 (Separation of Powers) – 30 pages.

American Constitutional Law: Compromise, Critique, Contestation
POL3050 |T/F 4.30 – 6.10
Prof. Sam Galloway

Friday, 10/1:

- Hamilton, Alexander; Madison, James; Jay, John. *The Essential Federalist and Anti-Federalist Papers* Nos. 52, 55, 57 (House of Reps), 62, 63 (Senate), 70, (Executive), 78 (Judiciary) – 33 pages.

Week Six: Amendment

Tuesday, 10/5:

- *Constitutional Law for a Changing America*, pp. 30 – 66.
- Bill of Rights

Friday, 10/8:

- *Constitutional Law for a Changing America*, pp. 67 – 114.
- Bill of Rights

Week Seven: Judicial Review

Tuesday, 10/12:

- *Constitutional Law for a Changing America*, pp. 116 – 141.

Friday, 10/15

- *Constitutional Law for a Changing America*, pp. 141 – 160.

Week Eight: Abolitionist Critiques

Tuesday, 10/19:

- Stoughton Lynd, “The Abolitionist Critique of the United States Constitution” in *Class Conflict, Slavery, and the United States Constitution*, pp. 153 – 184.

Friday, 10/22:

- Douglass, Frederick. “The American Constitution and the Slave” (1860).” In *The Speeches of Frederick Douglass: A Critical Edition*, edited by Mckivigan John R., Husband Julie, And Kaufman Heather L., pp. 151 – 185. New Haven; London: Yale University Press, 2018

Week Nine: The Second American Revolution: The Constitution as Guarantor of Civil Rights

Tuesday, 10/26

- “The Second American Revolution,” Eric Foner in *The United States Constitution*, ed. Ollman & Birnbaum, pp. 201 – 207.
- The Thirteenth, Fourteenth, and Fifteenth Amendments to the United States Constitution.

Friday, 10/29

- *Constitutional Law for a Changing America*, pp. 161 - 204.

American Constitutional Law: Compromise, Critique, Contestation
POL3050 |T/F 4.30 – 6.10
Prof. Sam Galloway

Week Ten:

Tuesday 11/2: No class, Election Day. VOTE!!!

Friday, 11/5: *Plessy v. Ferguson* (1896) and *Brown v. the Board of Education* (1954).

- Donald E. Lively and Stephen Plass, "Equal Protection: The Jurisprudence Of Denial And Evasion," *American University Law Review*, 40, 1307 (SUMMER, 1991), pp.1308 – 1355.

Week Eleven: Constitution and Civil Rights

Tuesday, 11/9

- *Constitutional Law for a Changing America*, pp. 1157 – 1172.

Friday, 11/12:

- *Constitutional Law for a Changing America*, pp. 1173 – 1247.

Week Twelve: Constitution and Civil Rights, Continued

Tuesday, 11/16

- *Constitutional Law for a Changing America*, pp. 1248 – 1309.

Friday, 11/19

- *Constitutional Law for a Changing America*, pp. 1309 – 1361.

Week Thirteen: Constitution and Civil Rights, Continued

Tuesday, 11/23

- *Constitutional Law for a Changing America*, pp. 1362 - 1387.

Friday, 11/26:

Remember and pay tribute to the Wappinger people who were dispossessed of their land, called Quarropas, upon which Purchase College was eventually built. Which Indigenous Peoples inhabited the lands where you live? How has settler colonialism shaped your community? Learn more about the Wappinger here: <https://www.purchase.edu/live/news/4160-the-native-voice>

Week Fourteen: Voting Rights, Election Integrity, Representation

Tuesday, 11/30

- *Constitutional Law for a Changing America*, pp. 1387 – 1434.

Friday, 12/3

- *Constitutional Law for a Changing America*, pp. 1434 – 1490.

American Constitutional Law: Compromise, Critique, Contestation
POL3050 |T/F 4.30 – 6.10
Prof. Sam Galloway

Week Fifteen: Voting Rights Continued

Tuesday, 12/7

- Schuit, Sophie, and Jon C. Rogowski. "Race, representation, and the voting rights act." *American Journal of Political Science* 61, no. 3 (2017): 513-526.

Friday, 12/10

- Hasen, Richard L. "Three Pathologies of American Voting Rights Illuminated by the COVID-19 Pandemic, and How to Treat and Cure Them." *Election Law Journal: Rules, Politics, and Policy* 19, no. 3 (2020): 263-288.

Final Papers due Wednesday Dec. 15.