

# **POLI 359: World Constitutions**

Fall 2022

Tuesday/Thursday: 1:00 – 2:15 PM  
HUM 119

## **Contact Information**

Instructor: Dr. Joseph Cozza (*He/Him*)  
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Office Hours: Tuesday 2:30 – 4:00 and Wednesday 1:30 – 3:00

## **Course Objectives and Learning Outcomes**

Constitutions serve as critical links between a foundational past and an aspirational future, embodying both the historic experience and identity of the state as well as the goals and aspirations of its people. They are also meant to be enduring documents that constrain and shape the contours of political governance in order to provide stability and predictability. Though constitutions are now essential to the establishment – or re-establishment – of a political order, the nature of constitutional governance has changed significantly overtime. The United States Constitution was drafted and ratified over 200 years ago, becoming a model for constitutional democracies around the globe. In the intervening centuries, however, countries around the world have transformed our understanding of constitutionalism through a dynamic and iterative process of constitutional development. How has constitutional governance changed and adapted over time? What new innovations have countries brought to bear on constitutional design and implementation? This course explores these questions by introducing students to critical topics in global constitutional theory and design. In doing so, we will cover the basics of constitutional theory, drafting, and amendment, political institutions, and constitutional rights and liberties. Throughout the course, these features of the US Constitution will be compared to those in constitutional systems around the world – both democratic and non-democratic. This course will also place a particular emphasis on domestic and foreign case law to highlight the critical questions surrounding contemporary constitutional design and implementation. In addition to mastering a set of basic facts about constitutional systems, students will learn theories addressing “big questions” in constitutional design. We also explore critical assessments of the evidence brought to bear on these questions.

The goal of this course is to give students the tools with which they can critically analyze the design of global constitutions. Equipped with this knowledge and a broader perspective, students will be prepared to

- Understand the fundamentals of modern constitutional design.
- Gain specific knowledge in the fields of comparative politics and public law.
- Develop and strengthen written communication and critical thinking skills.

- Learn how to interpret, evaluate, and apply political science research and theories to understand the political world.
- Contribute intelligently to ongoing civil conversation about US and global politics.

## Required Texts and Materials

The reading assignments are crucial for a complete understanding of the course material, and students are expected to keep pace with the syllabus. The required text for this course is as follows:

*Patterns of Democracy: Government Forms and Performance in Thirty Six Democracies*  
by Arend Lijphart

The required text is available at the Rice Campus Store and can also be purchased online. All other required readings will be posted on Canvas. All readings on the course calendar are required unless otherwise indicated.

## Exams and Papers

### Exams (3) (60% Total)

Exams cover material in the assigned readings and from lecture. These exams are not cumulative. The exams will contain multiple choice and short answer questions as well as one short essay.

#### Exam Dates:

- Exam 1: Thursday, September 22<sup>nd</sup>
- Exam 2: Thursday, October 27<sup>th</sup>
- Exam 3: Thursday, December 1<sup>st</sup>

If you foresee problems with the exam dates, see me during office hours or contact me by e-mail at least two weeks *before* the assigned dates.

### Paper (1) (20% Total)

Students will be asked to write a short paper responding to a prompt posted to Canvas. The assignment should be between 4-6 pages in length and will draw on the material from the course. Papers will be accepted via Canvas and will be due on November 29<sup>th</sup>. Papers WILL NOT be accepted via email. Additional details and the question prompt will be posted on Canvas.

### Comparative Constitution Project (10) (10% Total)

At the beginning of the semester, each student will pick one country they want to study. Each assigned week, you will write a 5 sentence response post on Canvas examining how your country's constitution grapples with the topic discussed in class that week. There will be 12 prompts throughout the semester and each student will be required to respond to ten. Responses must be posted by 1:00 PM on the listed due date. Posts cannot be made until one week prior to the due date. Late posts will not count. Additional details can be found on Canvas.

### Quizzes (7) (5% Total)

There will be seven quizzes throughout the semester beginning in the second week. Quizzes will consist of 1-2 questions based on the week's readings and lectures and will be completed at the beginning of class. Students will have 3-5 minutes to complete each quiz. Any student who is unable to attend class should alert me in advance to arrange a makeup quiz. At the end of the semester, your two lowest quiz grades will be dropped.

### Participation (5% Total)

Participation in class discussions is critical to a constructive and dynamic learning environment. Class participation is different from attendance. During discussion sessions students are encouraged to raise questions and relevant topics in class and are expected to contribute to class discussions regarding the readings and course material.

## Grade Policies

Overall course grades are assigned according to the following scale:

93.0% - 100%	A	77.0% - 79.9%	C+
90.0% - 92.9%	A-	73.0% - 76.9%	C
87.0% - 89.9%	B+	70.0% - 72.9%	C-
83.0% - 86.9%	B	60.0% - 69.9%	D
80.0% - 82.9%	B-	0% - 59.9%	F

Final course grades are calculated based on a percentage rounded to the nearest tenth of a percent. For example, a final score of 92.95 is rounded to 93.0 and is an A, while an 82.91 is rounded to 82.9 and is a B-. This grading policy is not subject to appeal.

### Grade Appeals

Following the return of graded work, a student must wait **three (3)** days before contacting me about an appeal. After the three-day waiting period, a student has **eleven (11)** business days after the return of graded work (MTWRF) to appeal a grade. Appeals must be made in writing (via email is fine) and provide evidence for the change. In total, the appeal time frame is **fourteen (14)** days from the day the graded work is returned. For example, if an exam is returned on Wednesday, appeals may not be submitted until Tuesday of the following week. Between Tuesday after the exam is returned and the following Tuesday, appeals are accepted. On Wednesday, two weeks after the exam is returned, appeals are no longer accepted. I am always happy to discuss graded work with students at any point during the semester, even after an appeal period has passed.

### Makeup Policy

All assignments are due as indicated on the syllabus or on assignment handouts. Makeup exams will be offered when circumstances keep a student from being able to take the exam on the scheduled date. If at all possible, such circumstances should be communicated to me before scheduled exams. Late papers are accepted, but they will be penalized a full letter grade for every day late. Exceptions to this policy can be made at my discretion, but only if circumstances are communicated in advance of the due date. See also, COVID-19/Health related policies.

## Absence Policies

While there is no attendance grade in this course, you are expected to attend all class sessions. The exams will heavily rely on what we will discuss in class. There are more details beyond the readings and lecture material we will discuss in class and you will be responsible of those details in the exams. Therefore, I strongly encourage you to come to class.

Students are expected to do the assigned readings *before* we discuss the topic in class, and arrive at class ready to discuss the readings. Please feel free to talk to me if you anticipate needing to arrive to class late or leave early for any reason during the semester.

## COVID-19/Health Related Policies

Understanding the persistent threat posed by the ongoing COVID-19 pandemic, some adjustments may be in order to ensure in-person classroom interactions are conducted in a safe and healthy manner. In the event of an outbreak or a significant number of absences, an asynchronous Zoom option will be available. Students should not come to class if they are ill or have been exposed to COVID-19 or any other illness and will have the opportunity to make up any missed work without penalty. Students who miss class for an extended period due to an illness should see me to ensure they have the proper notes from the missed class sessions. Additionally, missing class due to illness/exposure **will not** affect the student's participation grade. If you have to miss class due to an illness, please notify me beforehand, unless impossible, and always as soon as possible. Please stay safe and healthy!

## Accommodations for Religious Holidays

If you miss a quiz, exam or assignment in order to observe a religious holiday, you will be given an opportunity to complete the missed work within a reasonable time after the absence.

## Course Communication

Course materials, including all readings outside of the core text, will be posted on the course Canvas page. All important course communication outside of class time will be posted as an announcement on the class Canvas page. I do not anticipate using this feature frequently, but I would encourage you to check the Canvas page daily or change your Canvas settings to email you when an announcement is posted. You will also use Canvas to submit the short paper and the blog post assignments.

*Office Hours:* Office hours are your time and will be held Tuesday, 2:30 – 4:00 and Wednesday, 1:30 – 3:00. You are welcome to stop by to discuss course material, current events, or simply talk politics. If you need to arrange a meeting outside my office hours, please email me with suggested times. I will do my best to accommodate these requests, but they should only be used in circumstances where attendance to my normal office hours is impossible.

*Email:* The easiest way to contact me outside of office hours is via email. I will only respond to emails during normal business hours (8-6pm, M-F) and will be sure to respond within 24 hours.

## **Rice Honor Code**

In this course, all students will be held to the standards of the Rice Honor Code, a code that you pledged to honor when you matriculated at this institution. If you are unfamiliar with the details of this code and how it is administered, you should consult the Honor System Handbook at <http://honor.rice.edu/honor-system-handbook/>. This handbook outlines the University's expectations for the integrity of your academic work, the procedures for resolving alleged violations of those expectations, and the rights and responsibilities of students and faculty members throughout the process.

## **Disability Resource Center**

If you have a documented disability or other condition that may affect academic performance you should: 1) make sure this documentation is on file with the Disability Resource Center (Allen Center, Room 111 / [adarice@rice.edu](mailto:adarice@rice.edu) / x5841) to determine the accommodations you need; and 2) talk with me to discuss your accommodation needs.

## **Title IX Responsible Employee Notification**

Rice University cares about your wellbeing and safety. Rice encourages any student who has experienced an incident of harassment, pregnancy discrimination or gender discrimination or relationship, sexual, or other forms interpersonal violence to seek support through The SAFE Office. Students should be aware when seeking support on campus that most employees, including myself, as the instructor, are required by Title IX to disclose all incidents of non-consensual interpersonal behaviors to Title IX professionals on campus who can act to support that student and meet their needs. For more information, please visit [safe.rice.edu](http://safe.rice.edu) or email [titleixsupport@rice.edu](mailto:titleixsupport@rice.edu).

## **Syllabus Change Policy**

This syllabus is only a guide for the course and is subject to change with advanced notice.

## **Course Schedule**

### **Module 1: Constitutional Theory, Drafting, and Amendment**

#### **Weeks 1 and 2: Constitutional Theory**

**Tuesday, August 23**

Course Introduction

**Thursday, August 25**

Declaration of Independence  
Elkins et al, *Endurance of National Constitutions* (Chapter 3)

**Tuesday, August 30**

Hirschl, “Strategic Foundations of Constitutions”  
Schaur, “On the Migration of Constitutional Ideas”

**Thursday, September 1**

Ginsburg and Simpsen, “Constitutions in Authoritarian Regimes”

*Topics:* Social Contract Theory; Natural Rights; Unwritten Constitutions; Authoritarian Constitutions; Why Write a Constitution?

**Week 3: Drafting and Approving a Constitution****Tuesday, September 6**

Elster, “The Optimal Design of a Constituent Assembly

**Thursday, September 8**

Hart, “Democratic Constitution Making”

*Topics:* US Constitution Writing; Constituent Assemblies; Participatory Constitution Making/Referendums

**Week 4: Amending a Constitution****Tuesday, September 13**

US Constitution Article V  
Lijphart Ch. 12, pgs. 204 – 212  
Blake et al, “Institutional Rules, Social Capital, and Constitutional Amendment Rates”  
Excerpts from *Kesavanada Bharati* (India)

**Thursday, September 15**

Albert, “The Case for Presidential Illegality in Constitutional Amendment”

*Topics:* Article V; Constitutional Flexibility/Rigidity; Endurance of National Constitutions; Unamendability/Militant Democracy; Tiered design

**Week 5: Secession and Exam 1****Tuesday, September 20**

Sunstein, “Constitutionalism and Secession”  
*Reference Re Secession of Quebec* (Canada)  
Nayler, “How to Succeed at Seceding” (*Optional*)  
Pattani, “Texplainer: If Brexit Can Happen, Can Texit?” (*Optional*)

**Thursday, September 22**

Exam 1

## Module 2: Political Institutions in Comparative Perspective

### Weeks 6 and 7: Presidential v. Parliamentary Systems

#### Tuesday, September 27

US Constitution, Articles I and II  
Lijphart Ch. 7

#### Thursday, September 29

Linz, “The Perils of Presidentialism”

#### Tuesday, October 4

Ginsberg et al, “On the Evasion of Executive Term Limits”

*Topics:* Differences between systems; Critiques of Presidentialism; Presidential Term Limits

### Weeks 7 and 8: Bicameralism and Federalism

#### Thursday, October 6

Lijphart Ch. 10 and 11

*Topics:* Bicameralism; Unitary, Federal, and Confederal States; Asymmetrical Federalism

#### Tuesday, October 11 - NO CLASS

#### Thursday, October 13

No new reading

### Week 9: Judicial Review and Court Systems

#### Tuesday, October 18

US Constitution, Article III  
*Marbury v. Madison* (USA)  
Lijphart Ch. 12, pgs 212 – 225

#### Thursday, October 20

Landau and Dixon, “Abusive Judicial Review: Courts Against Democracy”

*Topics:* Establishing Judicial Review; Strong v. Weak form Judicial Review; Abusive Judicial Review; Counter-majoritarian difficulty

### Week 10: Electoral Systems and Exam 2

#### Tuesday, October 25

Lijphart Ch. 8  
Issacharoff, *Fragile Democracies* (Chapter 4)

**Thursday, October 27**  
Exam 2

### **Module 3: Comparative Rights and Liberties**

#### **Week 11: Negative v. Positive Rights**

**Tuesday, November 1**

US Constitution, Bill of Rights  
Epp, “Do Bills of Rights Matter? The Canadian Charter of Rights and Freedoms”

**Thursday, November 3**

Bilchitz, “Constitutionalism and Economic Justice in the Global South”  
*DeShaney v. Winnebago County* (USA)

Topics: Bills of Rights; Negative and Positive Rights; ESCRs and their Enforcement

#### **Week 12: Free Expression and Hate Speech**

**Tuesday, November 8**

Rosenfeld, “Hate Speech in Comparative Jurisprudence: A Comparative Analysis”

**Thursday, November 10**

*Brandenburg v. Ohio* (USA)  
*Holocaust Denial Case* (Germany)

#### **Week 13: Institutional Approaches to Gender, Ethnic, and Religious Diversity**

**Tuesday, November 15**

US Constitution, Amendments 13, 14, 15, and 19  
US Constitution, Proposed 28<sup>th</sup> Amendment  
Bauer and Burnet, “Gender quotas, democracy, and women's representation in Africa: Some insights from democratic Botswana and autocratic Rwanda”

**Thursday, November 17**

McGarry and O’Leary, “Iraq’s Constitution of 2005: Liberal consociation as political prescription”

Topics: Reconstruction Amendments; 28<sup>th</sup> Amendment; Quotas; Consociationalism

#### **Week 14: Queer Rights and Abortion Rights**

**Tuesday, November 22**

Excerpts from the following cases:

- *Roe v. Wade* (USA)
- *Dobbs v. Jackson Women’s Health Organization* (USA)
- *Attorney General v. X* (Ireland)



- *Abortion Case I (Germany)*
- *Obergefell v. Hodges (USA)*
- *Naz Foundation (India)*

**Thursday, November 24 - NO CLASS**

### **Week 15: Wrap-Up and Exam 3**

**Tuesday, November 29**

Course wrap-up

**Thursday, December 1**

Exam 3