POL 192b: Constitutional Theory and Design
Spring 2014
M, W 3:30 – 4:40PM

Professor Jeffrey Lenowitz
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Olin-Sang 206
Office Hours: Thursdays, 2:00-4:30

Course Description:
Constitutions are in the news. Politicians criticize each other for violating constitutions daily. Conventions and assemblies around the world are trying to make new ones. Citizens take to the streets to demand the revision or replacement of unwanted constitutions. And recently Google launched a digital archive of them. But what exactly is a constitution? Why should it matter if someone violates one? What purpose do constitutions even serve? This course, which lies at the intersection of political theory, law, and institutional design, focuses on such questions. Specifically, the course divides into three parts. First, we will look at the history, theory, and function of constitutions. Second, we will examine the procedures used to create new constitutions and the effects that these procedures might have. And third, we will look at the amendment, enforcement, and interpretation of constitutions.

Prerequisites:
This seminar is designed for advanced undergraduates and graduate students. The readings are challenging and numerous, the subject matter complex, and students will engage with ideas and arguments drawn from the history of political thought, political philosophy, constitutional law, American politics, rational choice theory, and contemporary political theory. As such, students should have a foundation in political theory, political science, or constitutional law, meaning that they have taken two courses in these areas. Students who do not have this base but still wish to take the course may email me and we can discuss the possibility of an exception.

Requirements and Grading:
Students are expected to complete all assigned readings in accordance with the class schedule and to be prepared to discuss them in depth. This course combines lectures with vigorous discussion, neither of which will be useful unless all material is read ahead of time. Attendance is mandatory unless accompanied by a legitimate explanation.

Undergraduate Students:
- Seminar Participation, 20%
- Mid-term take home exam, 20%
- Two papers (8-10 pages), 60%
Graduate Students:

- Seminar Participation, 30%
- Term paper (20-25 pages), 70%

**Please note that if you are a student with a documented disability on record at Brandeis University and wish to have a reasonable accommodation made for you in this class, please see me immediately.

**Academic Integrity:**

All students are expected to be familiar with and to follow the University’s policies on academic integrity (see [http://www.brandeis.edu/studentlife/sdc/ai](http://www.brandeis.edu/studentlife/sdc/ai)). Faculty may refer any suspected instances of alleged dishonesty to the Office of Student Development and Conduct. Instances of academic dishonesty may result in sanctions including but not limited to, failing grades being issued, educational programs, and other consequences.

**Technology Policy:**

Keep all phones out of sight for the entirety of class. Computers and tablets can be used to take notes, but I will dock participation grades substantially if I see you using it for something other than taking notes.

**Class Schedule:**

*****This is subject to change depending upon how the seminar proceeds*****

Monday, January 13: Introduction to the Course  

Part I – The History, Function, and Theory of Constitutions

Wednesday, January 15: Some overview


Wednesday, January 22: Ancient Political Thought


Monday, January 27: Modern Political Thought


- Madison, James. *Federalist No. 53.*

Wednesday, January 29: Modern Political Thought


Monday, February 3: Constitution as Contract


Wednesday, February 5: Constitution as Contract


Monday, Feb 10: Constitutions as Equilibrium


Wednesday, Feb 12: Constitution as Equilibrium


Monday, Feb 24: Constitutions as Precommitment Devices

- First undergraduate paper due

Wednesday, Feb 26: Constitutions as Precommitment Devices


  **Part II – Constitution-Making**

Monday, March 3: Who can create a constitution? Constituent power


Wednesday, March 5: Who can create a constitution? Constituent power


Monday, March 10: Constitution-Making Processes


- Midterm Due
Wednesday, March 12: Constitution-Making Processes


Monday, March 17: Constitution-Making in America


Wednesday, March 19: Constitution-Making in America

- Ackerman. We the People: Transformations. P. 32-68

Monday, March 24: Constitution-making Around the World


Wednesday, March 26: Constitution-making Around the World


Part III – Amendment, Enforcement, Interpretation

Monday, March 31: Enforcement and Judicial Review


**Wednesday, April 2: Enforcement and Judicial Review 2**

- Ronald, Dworkin. *A Matter of Principle*, Chapter 1

**Monday, April 7: Amending & Entrenchment 1**


**Wednesday, April 9: Amending & Entrenchment 2**


**Monday, April 14: Interpretation 1**


**Wednesday, April 23: Interpretation 2**


**Monday, April 28: Conclusion.**

- Graduate paper due.
- Undergraduate second paper due.