

**POL347 US Government and Politics, Constitutional Structure and Development, Winter 2022** v. 1.0  
Instructor: Renan Levine [renan.levine@utoronto.ca](mailto:renan.levine@utoronto.ca)

**Online Lectures:** Zoom Meeting ID: 823 9755 9863 Passcode: 1789  
<https://utoronto.zoom.us/j/82397559863>

**Office Hours:** Location TBD 11 am – noon on campus; Thursday 1-2:30 pm via Zoom  
Meeting ID: 878 6568 5175 Passcode: mandate <https://utoronto.zoom.us/j/87865685175>

### Description

This course examines the constitutional foundations of American politics—the separation of powers, federalism, and rights. We will examine the historical origins of the American constitution, the transformation of American constitutionalism in the late 19<sup>th</sup> Century, discuss the evolving interpretation of several key clauses of the Constitution, and take a close look at the debate over the constitutionality of the Biden administration’s efforts to mandate that large employers require their employees to become vaccinated against COVID-19.

### Objectives

- Understand the often-contradictory considerations, including principles and policy dynamics, that led to the US Constitution
- Appreciate how changing political circumstances affected constitutional interpretation.
- Comprehend how constitutional analysis is carried out by advocates, researchers, and the courts.

### Readings

There is no textbook required for purchase in this class; all readings are drawn from academic and on-line sources that are available (for free) to anyone on the internet, or anyone with a UTORid, or will be shared on Quercus.

### Assignments

	<u>Deadline (11:59 pm)</u>	<u>Value</u>
Survey Data Analysis - MLK	January 21	5
Reflection Papers (2)	April 1 (February 4)	20
COVID Mandate Debate & Exercise	February 11	12
14th Amendment & Slaughterhouse	March 18	10
Cases Exercise		
How should ___ be read? Analysis	April 8	15
Supreme Court Case Report	April 1	3
Term Test	March 7	30
Participation		5

### Assignment Details

All work will be submitted electronically to Quercus and/or the PepperR discussion forums (accessible through Quercus). More detailed descriptions of each assignment will be posted on Quercus.

### **Survey Data Analysis - MLK**

A multiple choice worksheet that asks students to examine public opinion towards Rev. Dr. Martin Luther King, Jr., shortly after his murder. Students will use Excel, or, if they are able, a statistics program of their choice.

### **Reflection Papers (2)**

For at least two different weeks, students should write a reflection paper that reflects upon what they thought before the class began, and then describes how class materials (required and/or recommended readings and/or movies) have shaped their understanding of US government and politics, and/or the US Constitution. The first paper must be completed on material covered on-line (currently on material up to January 31); the second paper can be completed on any material up to and including the penultimate week of class.

### **Supreme Court Case Report**

A very brief (300-600 word) summary & analysis of cases currently in front of the Supreme Court to be posted on Quercus AND Pepper Discussion Forums or a case decided in the previous term. Students will briefly summarize the case, identify the litigants and interested parties on each side, the important constitutional or legal questions they pose, and speculate as to whether the justices in the case are likely to split along liberal-conservative lines (or explain whether such a split did or did not occur). Cases include those granted cert as well as those requesting injunctions or cases in which cert was denied. Most papers will be given 3/3 points for completion (2.5 points if there are some minor omissions or errors). Cursory papers that reflect little effort will receive 2 or fewer marks. Students must not duplicate work by others students, but for one bonus mark students can provide an update on a case or a correction of another student's analysis.

### **COVID Mandate Debate & Exercise**

#### **14th Amendment & Slaughterhouse Cases Exercise**

Two exercises (like worksheets) that will ask students to answer comprehension and analysis questions about a) the current vaccine mandate cases in front of the Supreme Court, b) the Slaughterhouse Cases. Each is worth 10 marks. The COVID Mandate exercise will follow a debate/discussion in class that is worth another two marks for participation & engagement.

### **Term Test**

An in-person, timed multiple-choice (or mostly multiple choice) test on the readings and materials from the start of term. This test is expected to be closed book unless circumstances require the test to be online and open book. In any case, the test will take place during lecture time and take up to 1:45 to complete.

### **How should \_\_\_ be read? Analysis Memo**

In class we will debate or discuss a) whether the Constitution is a pro-slavery or anti-slavery document (February 14), b) the 14<sup>th</sup> Amendment (March 14), c) the Commerce Clause (March 21), or d) Rules about Congress (Article 1, March 28). Students should choose one of these topics, or a clause of the 1<sup>st</sup> Amendment, the 2<sup>nd</sup> Amendment, or the 15<sup>th</sup> Amendment, and write an analysis that advocates a

particular way of interpreting that clause, article or amendment after reviewing different ways of interpreting that section. Students are encouraged to draw from material from the syllabus and the National Constitution Center (<https://constitutioncenter.org/interactive-constitution/the-constitution>) to complete their analysis.

## **Participation**

For weeks when the whole class is online, a portion of the participation mark is objective and based on attendance using the formula: (Total Number of Online Classes – 1) \* 0.5 marks up to a maximum of 4 marks. At the start of this term, three lectures will be online, so  $(3 - 1) * 0.5 = 1$  mark. To receive credit, students must be recorded by Zoom as having attended class for at least one hour. Students who do not enter break out rooms or are not present for the entirety of break-out room discussions will not receive credit.

The rest of the five marks for participation will be a largely subjective measure to reward student engagement in class and on-line in the discussion forum, but may also be allocated to students who are engaged in class activities that arise during the term including review quizzes, in-class activities and discussions (including online simulcasts) or to reward attendance at optional special events like Biden nominee, Professor Deborah Lipstadt's talk on January 31, or the viewing of the film, "School Prayer: A Community at War."

## **Grading Policies**

### *Late Assignments*

Unless explicitly specified, the deadline for all assignments is at 11:59 pm on turnitin.com (via Quercus). All matters of grading, exemptions, and discipline procedures will be handled in accordance with the UTSC Academic Handbook. After a 72 hour grace period, late assignments will be penalized 3% per day for the next seven days of lateness. After ten calendar days of lateness, the instructor will refuse to accept the work for grading. We will generously grant extensions for work, family, child care, or other non-health reasons prior to the deadline or quiz, so please make sure you, or someone you delegate, contacts the instructor or the TA whenever there may be an issue. Students whose health renders them unable to complete an assignment should also contact the professor before deadlines under non-exceptional circumstances.

See <http://www.artsci.utoronto.ca/main/faculty/resources/faculty/acaresources> for the complete handbook.

### *Appeals*

Any student who believes that any work has been unfairly graded may ask the instructor to re-evaluate his or her work. Grading appeals should be submitted via email with a cover letter explaining the basis of the appeal to the instructor.

### *Plagiarism and Academic Integrity*

Academic integrity is fundamental to learning and scholarship at the University of Toronto. Participating honestly, respectfully, responsibly, and fairly in this academic community ensures that the U of T degree that you earn will be valued as a true indication of your individual academic achievement and will continue to receive the respect and recognition it deserves.

Please familiarize yourself with the University of Toronto's Code of Behaviour on Academic Matters (<http://www.governingcouncil.utoronto.ca/policies/behaveac.htm>). It is the rule book for academic behaviour at the U of T, and you are expected to know the rules. A list of potential offences can be found here:

<https://view.officeapps.live.com/op/view.aspx?src=http://www.artsci.utoronto.ca/osai/instructors-and-staff/tips-templates/AI-statement-and-checklist.docx>

The above link also includes a checklist that you should consult before you submit written work in any class to avoid any plagiarism issues. Plagiarism is a serious academic offense with a severe penalty. It is essential that you understand what plagiarism is and that you do not commit it. Please see <http://www.writing.utoronto.ca/advice/using-sources/how-not-to-plagiarize> for more information and tips on how to avoid plagiarism.

Normally, students will be required to submit their course assignments to the University's plagiarism detection tool website for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their material to be included as source documents in the University's plagiarism detection tool reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the University's plagiarism detection tool service are described on the company web site.

The final exam is open book; however, students may not communicate with each other during the exam. Because there are likely multiple sittings of the final exam, students should avoid all communications with other students from whenever students start taking the test until an hour or two after the test window closes to ensure that no one is given an unfair advantage.

### *Accessibility*

The University of Toronto is committed to accessibility; I wholeheartedly share that commitment by ensuring that every student should have a fair chance to excel in this course. I strive to create and maintain an inclusive environment and promise to provide reasonable and appropriate accommodations to persons who require them. Students with diverse learning styles and needs are welcome in this course. I invite you to discuss any accessibility concerns about the course, the classroom or course materials with me and/or staffers at Accessibility Services. If you require accommodations for a disability, or have any accessibility concerns about the course, the classroom or course materials, please contact Accessibility Services at 416-978-8060 or [accessibility.services@utoronto.ca](mailto:accessibility.services@utoronto.ca). Appointments and drop-in sessions for accessibility advisors and learning strategists are available. For more information, please visit <http://studentlife.utoronto.ca/as>

### *Other*

#### **Family Care & Involvement**

During these challenging periods of quarantine, I know that many often face unexpected child- and elder- care challenges. If you have children of any age, or responsibility to care for children, you should

know that when circumstances require their presence, they are welcome to be present during online lectures or office hours. I know that for many of us, finding quiet, private space for class may be impossible. When/if we are on-line, videos may be kept off at all times (at most, you may need to show me your screen). Please encourage any family member who may be interested in politics, scientific research, or just some cheap entertainment to listen to lectures. I will be happy to respond to any questions they might have, just please remember that everyone's work in this class must reflect their own efforts. If they are not interested, but present, just remember to keep yourself muted. 😊

### **Religious Accommodations**

As a student at the University of Toronto, you are part of a diverse community that welcomes and includes students and faculty from a wide range of cultural and religious traditions. For my part, I will make every reasonable effort to avoid scheduling tests, examinations, or other compulsory activities on religious holy days not captured by statutory holidays. Further to University Policy, if you anticipate being absent from class or missing a major course activity (such as a test or in-class assignment) due to a religious observance, please let me know as early in the course as possible, and with sufficient notice, so that we can work together to make alternate arrangements.

### *Contact*

The instructor will be available via Quercus email, and U of T email. Please include POL386 in the subject line of all emails. Please do not hesitate to request a time for a face-to-face or phone chat, including after 9 pm on weeknights. Be forewarned, the instructor is often occupied (or pre-occupied) with his children in the morning, and at dinner time, and attempts to unplug during the Jewish Sabbath from Friday evening through Saturday evening (if not all weekend). During the week, the instructor will try to respond to emails within 48 hours. Students are encouraged to use the Quercus (Pepper) discussion forums for class questions.

### *Weekly Schedule*

*Required readings and films before the term test will potentially be on the test. Recommended readings and films will not, although they may appear in lectures (and lecture-content may be on the test). Students writing reflection papers on that week's topic are especially encouraged to review the recommended readings.*

### **January 10 Problems & Precursors**

Declaration of Independence, <https://www.archives.gov/founding-docs/declaration-transcript>

Jillson, Calvin C. *American Government : Political Development and Institutional Change*. 6th ed. New York: Routledge, 2011. pp. 26-36

[https://librarysearch.library.utoronto.ca/permalink/01UTORONTO\\_INST/14bjeso/alma991106931669306196](https://librarysearch.library.utoronto.ca/permalink/01UTORONTO_INST/14bjeso/alma991106931669306196)

Recommended: Roche, John P. 1961. "The Founding Fathers: A Reform Caucus in Action." *American Political Science Review* 55(4), pp. 799-816.

### **January 17 MLK**

Kennedy, Randall. "[Martin Luther King's constitution: a legal history of the Montgomery bus boycott.](#)" *Yale Law Journal* 98 (1988): 999.

Walker, Theodore. "A Martin Luther King Jr. Amendment to the US Constitution: Toward the Abolition of Poverty." (2018).

[https://scholar.smu.edu/cgi/viewcontent.cgi?article=1014&context=theology\\_research](https://scholar.smu.edu/cgi/viewcontent.cgi?article=1014&context=theology_research)

Vecchione, Judith, and Julian Bond. American Experience. Eyes on the Prize. Season 1, Episode 1, Awakenings (1954–1956). Arlington, VA: Public Broadcasting Service, 1986.

[https://librarysearch.library.utoronto.ca/permalink/01UTORONTO\\_INST/14bjeso/alma991106984241706196](https://librarysearch.library.utoronto.ca/permalink/01UTORONTO_INST/14bjeso/alma991106984241706196)

### **January 21 Survey Data Analysis - MLK due**

#### **January 24 Jefferson & Declaration**

Declaration of Independence: <https://www.archives.gov/founding-docs/declaration-transcript>

Rough draft of Declaration, see especially paragraph, "he has waged cruel war..."

<http://www.pbs.org/wgbh/aia/part2/2h33t.html>

Banneker, Benjamin, letter to Thomas Jefferson <https://founders.archives.gov/documents/Jefferson/01-22-02-0049>

Jefferson's Response: <https://founders.archives.gov/documents/Jefferson/01-22-02-0091>

Jefferson's forward to Condorcet: <https://founders.archives.gov/documents/Jefferson/01-22-02-0092>

Stockman, Farah. "Monticello Is Done Avoiding Jefferson's Relationship with Sally Hemings." *New York Times* June 16, 2018. <https://www.nytimes.com/2018/06/16/us/sally-hemings-exhibit-monticello.html>

Merrill, Thomas. 2019. When Jefferson Became Southern. *The Political Science Reviewer*, 43(2), pp. 347-378.

Recommended: Wheatley, Phillis. "On Being Brought from Africa to America."

<https://archive.vcu.edu/english/engweb/webtexts/Wheatley/brought.html>

#### **January 31 Constitution & Ratification**

*If on-line, this week's readings and activities may change*

Federalist #51 <https://founders.archives.gov/documents/Hamilton/01-04-02-0199>

Brutus, Anti-Federalist Paper # 3 <http://www.constitution.org/afp/brutus03.htm>

Video (start at 5:00): <https://constitutioncenter.org/learn/hall-pass/constitution-day-2011-freedom-of-expression>

Dougherty, Keith. "Slavery in the Constitution: Why the Lower South Occasionally Succeeded at the Constitutional Convention." *Political Research Quarterly* 73, no. 3 (September 2020): 638–50.

Textbooks:

Brooks, Stephen, Douglas L Koopman, and J. Matthew Wilson. *Understanding American Politics*. University of Toronto Press, 2013. Ch. 5, "The Constitution" <https://books-scholarsportal-info.myaccess.library.utoronto.ca/uri/ebooks/ebooks3/utpress/2014-01-13/1/9781442606005>

Jillson, Calvin C. *American Government : Political Development and Institutional Change*. 6th ed. New York: Routledge, 2011. pp. 37-54  
[https://librarysearch.library.utoronto.ca/permalink/01UTORONTO\\_INST/14bjeso/alma991106931669306196](https://librarysearch.library.utoronto.ca/permalink/01UTORONTO_INST/14bjeso/alma991106931669306196)

Optional special event (participation credit): Biden nominee Prof. Deborah Lipstadt will be talking to people at the University of Toronto at 10 am on January 31:

[https://us02web.zoom.us/meeting/register/tZMrceCvqDojE9w-lqZ53F\\_QnJvTuHHOOowz](https://us02web.zoom.us/meeting/register/tZMrceCvqDojE9w-lqZ53F_QnJvTuHHOOowz)

**February 4 Reflection Paper 1 must be complete on material from first three weeks of term**

### **February 7 Constitution Applied: COVID Mandates**

Malone, Kevin M., and Alan R. Hinman. "Vaccination mandates: the public health imperative and individual rights." *Law in public health practice*. Goodman, Richard A., Richard E. Hoffman, Wilfredo Lopez, Gene W. Matthews, Mark A. Rothstein, and Karen L. Foster, eds. Oxford University Press, 2007, Ch. 13, pp. 339-40. [https://www.cdc.gov/vaccines/imz-managers/guides-pubs/downloads/vacc\\_mandates\\_chptr13.pdf](https://www.cdc.gov/vaccines/imz-managers/guides-pubs/downloads/vacc_mandates_chptr13.pdf)

We the People Podcast: Will the Supreme Court Strike Down Biden's Vaccine Mandates? Podcast (or transcript) plus interactive constitution links. <https://constitutioncenter.org/interactive-constitution/podcast/will-the-supreme-court-strike-down-bidens-vaccine-mandates>

National Federation of Independent Business v. Department of Labor, Occupational Safety and Health Administration and Ohio v. Department of Labor, Occupational Safety and Health Administration, Oral Arguments: <https://www.c-span.org/video/?516920-1/supreme-court-oral-argument-covid-19-vaccine-mandate-large-employers> (Transcript here: [https://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/2021/21a244\\_kifl.pdf](https://www.supremecourt.gov/oral_arguments/argument_transcripts/2021/21a244_kifl.pdf) )

History of Vaccine Mandates in the United States <https://stacker.com/stories/21994/history-vaccine-mandates-us>

Recommended:

Links to briefs filed here: <https://www.scotusblog.com/case-files/cases/national-federation-of-independent-business-v-osha/> and here: <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/21a244.html>  
SCOTUSBlog also has a podcast, commentaries and other links.

Adler, Jonathan H. "Sloppy Arguments Over COVID Mandates at SCOTUS," The Volokh Conspiracy, blogpost, January 8, 2022. <https://reason.com/volokh/2022/01/08/sloppy-arguments-over-covid-mandates-at-scotus/>

Astor, Maggie. "Vaccination Mandates Are an American Tradition. So Is the Backlash: On Politics." New York Times (Online). September 9, 2021. <https://www.nytimes.com/2021/09/09/us/politics/vaccine-mandates-history.html>

Zucht vs King et al Decision

<https://tile.loc.gov/storage-services/service/ll/usrep/usrep260/usrep260174/usrep260174.pdf>

**February 11 COVID Mandate Exercise due**

**February 14 Constitution: Pro-Slavery or Anti-Slavery**

Amar, Akhil Reed. *America's Constitution: A Biography*, Random House, 2005. "three-fifths" pp. 151-170. (Quercus)

Douglass, Frederick. *The Constitution of the United States: Is It pro-Slavery or Anti-Slavery?* Pamphlets. printed by T. and W. Birthwhistle, Halifax, 1863. (JSTOR)

<http://myaccess.library.utoronto.ca/login?url=https://www.jstor.org/stable/60227764>

Gordon-Reed, Annette., 2018. "America's original sin: Slavery and the legacy of white supremacy." *Foreign Affairs* 97, p.2. (find on Quercus)

Spalding, Matthew. "How to Understand Slavery and the American Founding." Heritage Foundation (2002) <https://www.heritage.org/american-founders/report/how-understand-slavery-and-the-american-founding>

Recommended:

Hannah-Jones, Nikole. "Our democracy's founding ideals were false when they were written. Black Americans have fought to make them true." *New York Times Magazine* (2019).

<https://www.nytimes.com/interactive/2019/08/14/magazine/black-history-american-democracy.html>

Sandefur, Timothy. "The 1619 Project: An Autopsy" Cato Institute.

<https://www.cato.org/publications/commentary/1619-project-autopsy>

Rodriguez, Vanessa. "Frederick Douglass, the Constitution, and slavery: a classroom debate." *Social Education* 72, no. 5 (2008) - Modified

<https://go.gale.com/ps/i.do?id=GALE%7CA185487376&sid=googleScholar&v=2.1&it=r&linkaccess=abs&issn=00377724&p=AONE&sw=w&userGroupName=anon~cefdda5a>

Optional special event (participation credit): Video and/or discussion: "School Prayer: A Community at War." <https://torontopl.kanopy.com/video/school-prayer-community-war> You may join another class to watch this film (time and date, TBA) and/or join a discussion about the film with students from Georgia on Wednesday, February 16 at 12:30 pm

**February 21 Reading Week**

**February 28 Path to Civil War & the 13<sup>th</sup>, 14<sup>th</sup> & 15<sup>th</sup> Amendments**

13<sup>th</sup> Amendment Video: <https://constitutioncenter.org/learn/hall-pass/the-thirteenth-amendment>

Dred Scott: <http://www.pbs.org/wgbh/aia/part4/4p2932.html>

Abraham Lincoln, "House Divided" speech and Gettysburg Address:

<http://www.pbs.org/wgbh/aia/part4/4h2934t.html>

[http://avalon.law.yale.edu/19th\\_century/gettyb.asp](http://avalon.law.yale.edu/19th_century/gettyb.asp) Or, listen to [partial] dramatization:  
<http://www.youtube.com/watch?v=Vc5VEBPz8LE>

Recommended:

Little, Becky. "Why Lincoln's 'House Divided' Speech Was So Important." History Channel website, November 26, 2019. <https://www.history.com/news/abraham-lincoln-house-divided-speech>

### **March 7 Term Test**

#### **March 14 14<sup>th</sup> Amendment & Slaughterhouse Cases**

National Constitution Center, Interactive Constitution, 14<sup>th</sup> Amendment

<https://constitutioncenter.org/interactive-constitution/amendment/amendment-xiv>

C-Span: Supreme Court Landmark Case, Slaughterhouse Cases <https://www.c-span.org/video/?327712-1/supreme-court-landmark-case-slaughterhouse-cases>

14<sup>th</sup> Amendment Hall Pass Videos: Eric Foner and Tomiko Brown-Nagin

<https://constitutioncenter.org/learn/hall-pass/scholars-edition-tomiko-brown-nagin>

#### **March 18 14<sup>th</sup> Amendment & Slaughterhouse Cases Exercise due**

#### **March 21 Commerce Clause**

National Constitution Center Interactive Constitution: Commerce Clause

<https://constitutioncenter.org/interactive-constitution/interpretation/article-i/clauses/752>

United States v. Morrison <https://www.law.cornell.edu/supct/html/99-5.ZS.html>

MacKinnon, Catharine A. "[Disputing Male Sovereignty: On United States v. Morrison.](#)" *Harvard Law Review* 114 (2000): 135.

Recommended:

Gerhardt, Michael J. 2013. *The Forgotten Presidents : Their Untold Constitutional Legacy*. New York: Oxford University Press, Ch. 9, "Benjamin Harrison"

[https://librarysearch.library.utoronto.ca/permalink/01UTORONTO\\_INST/14bjeso/alma991106416916006196](https://librarysearch.library.utoronto.ca/permalink/01UTORONTO_INST/14bjeso/alma991106416916006196)

FTC Antitrust laws <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws>

#### **March 28 Congress & the Constitution**

Schmidt, Christopher W. *The Sit-Ins: Protest and Legal Change in the Civil Rights Era*. The University of Chicago Press, 2018. Ch. 6 <https://books-scholarsportal-info.myaccess.library.utoronto.ca/uri/ebooks/ebooks3/ucpbooks/2018-04-06/1/9780226522586>

Sinclair, Barbara. "Can Congress Be Trusted with the Constitution? The Effects of Incentives and Procedures." In Neal Devins and Keith E. Whittington. *Congress and the Constitution*. Duke University Press, 2005, pp. 293-312.

[https://librarysearch.library.utoronto.ca/permalink/01UTORONTO\\_INST/fedca1/cdi\\_jstor\\_books\\_10\\_23\\_07\\_j\\_ctv11smpx5](https://librarysearch.library.utoronto.ca/permalink/01UTORONTO_INST/fedca1/cdi_jstor_books_10_23_07_j_ctv11smpx5)

Recommended: Klarman, Michael J. "Court, Congress, and Civil Rights," on Neal Devins and Keith E. Whittington. *Congress and the Constitution*. Duke University Press, 2005.

***April 1 Reflection Papers & Supreme Court Case Report due***

**April 4 Contemporary Controversies & SCOTUS**

TBA

***April 8 How Should \_\_\_\_\_ Be Read? Analysis due***