

**“Constitutions, Democracy, and a Changing Climate”**

Topics in American History

21:512:360

Fall 2020

Prof. Brian Murphy

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Tuesday/Thursday 11:30-12:50

Virtual Office Hours: Thursday 1:00-2:00 or by appointment

**Course Description:**

This course will be a dive into one of the most consequential questions of our lifetime: is the form of government in the United States capable of adequately mobilizing to address climate change? To search for an answer, we will read and study in depth the history, text, and evolving interpretations of the federal Constitution and its amendments, the state constitutions that have been adopted in New Jersey’s history, and major litigation and legislation arising from those documents. We will examine in particular the change in the nature of statehood in the federal union from the Articles of Confederation, ratification debates, and the adoption of the 14<sup>th</sup> Amendment, as well as the dispossession of land from indigenous peoples and the articulation and recognition of political agency by minorities and women. Finally, we will examine recent writings on climate change and litigation and legislation on environmental issues to ask whether American democracy can respond to this urgent threat on behalf of its people.

**Learning Goals:**

Students who complete this course will be able to

1. Read and critically analyze a variety of texts. In this course we will be reading the official governing documents of the United States and the state of New Jersey, along with speeches, court records, legislation, and interpretive scholarship. Students who take this course will be asked to analyze these sources, starting with basic questions about who wrote the document, who its intended audience was, and its purpose(s) and uses. From there we will ask comparative historical questions spanning the 18<sup>th</sup> century to the present.
2. Understand past and present interrelationships among diverse political, social, racial, ethnic and/or gender groups. This is a course about the Constitution and how it has been interpreted to protect and bind different groups of Americans – and how it has also been used to define who counts as “American.” This course will offer us many opportunities to consider and contextualize the development of political rights and claims by different groups in American history and ask how climate change is already

creating opportunities for inclusion and exclusion under the equal protection and general welfare clauses of the Constitution.

### **Assignments and Grading:**

Lecture preparation and participation – 15%

Students are required to complete all readings and be prepared with questions and observations prior to class meetings.

Response Papers – 45%

Students will be asked to write 3 response papers to particular readings. These will be brief 1-2 responses to particular questions about particular readings.

Paper and Final Poster Project – 40%

Students will write one 4-5 page paper about a topic circulated in advance on October 15<sup>th</sup>. The paper will be due **October 29<sup>th</sup>**.

Students will also produce a final poster project about one particular constitutional issue chosen in advance and approved by the instructor. Digital tools like [Canva](#) or [Piktochart](#) may be used. Instructions will be circulated and students will present their posters during our virtual sessions in the final two weeks of the semester.

The following scale will be used to determine your semester grade, according to the grades that are available in the Rutgers grading system:

90 - 100 A

87 - 89 B+

80 - 86 B

77 - 79 C+

70 - 76 C

60 - 69 D

59 or less F

**Plagiarism and Academic Dishonesty:** As an academic community dedicated to the creation, dissemination, and application of knowledge, Rutgers University is committed to fostering an intellectual and ethical environment based on the principles of academic integrity. Academic integrity is essential to the success of the University's educational and research missions, and violations of academic integrity constitute serious offenses against the entire academic community. The entire Academic Integrity Policy can be found here:

<http://academicintegrity.rutgers.edu/academic-integrity-policy/>

**Students are required to view the Plagiarism video on Canvas and take the quiz by no later than Thursday September 10, 2020.** The video is available in the Modules section of the Canvas site for this course.

### **Accommodation and Support Statement:**

Rutgers University Newark (RU-N) is committed to the creation of an inclusive and safe learning environment for all students. RU-N has identified the following resources to further the mission of access and support:

- **Students with Disabilities:** Rutgers University welcomes students with disabilities into all of the University's educational programs. The Office of Disability Services (ODS) is responsible for the determination of appropriate accommodations for students who encounter barriers due to disability. In order to receive consideration for reasonable accommodations, a student with a disability must contact ODS, register, have an initial appointment, and provide documentation. Once a student has completed the ODS process (registration, initial appointment, and documentation submitted) and reasonable accommodations are determined to be necessary and appropriate, a Letter of Accommodation (LOA) will be provided to the student. The student must give the LOA to each course instructor, followed by a discussion with the instructor. This should be completed as early in the semester as possible as accommodations are not retroactive. More information can be found at [ods.rutgers.edu](http://ods.rutgers.edu). Contact ODS: (973) 353-5375 or [ods@newark.rutgers.edu](mailto:ods@newark.rutgers.edu).
- **Religious Holiday Policy and Accommodations:** Students are advised to provide timely notification to instructors about necessary absences for religious observances and are responsible for making up the work or exams according to an agreed-upon schedule. The Division of Student Affairs is available to verify absences for religious observance, as needed: (973) 353-5063 or [DeanofStudents@newark.rutgers.edu](mailto:DeanofStudents@newark.rutgers.edu).
- **Counseling Services:** Counseling Center Room 101, Blumenthal Hall, (973) 353-5805 or <http://counseling.newark.rutgers.edu/>.
- **Students with Temporary Conditions/Injuries:** Students experiencing a temporary condition or injury that is adversely affecting their ability to fully participate in their courses should submit a request for assistance at: <https://temporaryconditions.rutgers.edu>.
- **Students Who are Pregnant:** The Office of Title IX and ADA Compliance is available to assist students with any concerns or potential accommodations related to pregnancy: (973) 353-1906 or [TitleIX@newark.rutgers.edu](mailto:TitleIX@newark.rutgers.edu).

- **Gender or Sex-Based Discrimination or Harassment:** Students experiencing any form of gender or sex-based discrimination or harassment, including sexual assault, sexual harassment, relationship violence, or stalking, should know that help and support are available. To report an incident, contact the Office of Title IX and ADA Compliance: (973) 353-1906 or [TitleIX@newark.rutgers.edu](mailto:TitleIX@newark.rutgers.edu). To submit an incident report: [tinyurl.com/RUNReportingForm](http://tinyurl.com/RUNReportingForm). To speak with a staff member who is confidential and does **NOT** have a reporting responsibility, contact the Office for Violence Prevention and Victim Assistance: (973) 353-1918 or [run.vpva@rutgers.edu](mailto:run.vpva@rutgers.edu).
- **Food:** PantryRUN, the campus food pantry, helps students who have difficulty affording enough healthy food to remain focused on their studies and stay healthy. You can find hours and information here: <https://myrun.newark.rutgers.edu/pantryrun>

### Intellectual Property Rights Statement:

“Lectures and materials utilized in this course, including but not limited to videocasts, podcasts, visual presentations, assessments, and assignments, are protected by United States copyright laws as well as Rutgers University policy. As the instructor of this course, I possess sole copyright ownership. You are permitted to take notes for personal use or to provide to a classmate also currently enrolled in this course. Under no other circumstances is distribution of recorded or written materials associated with this course permitted to any internet site or similar information-sharing platform without my express written consent. Doing so is a violation of the university’s [Academic Integrity Policy](#).”

Similarly, these copyright protections extend to original papers you produce for this course. In the event that I seek to share your work further, I will first obtain your written consent to do so. Finally, as the instructor for this course, I have the responsibility to protect students’ right to privacy. Classroom recordings of students will therefore be treated as educational records under the Family Educational Rights and Privacy Act (FERPA), the U.S. federal law that governs access to educational information and records. Instructors and students must provide notification if any part of online sessions are to be recorded, and such recordings cannot be circulated outside the course.”

### Readings:

All readings will be circulated on Canvas.

### Semester Schedule:

#### Week 1      Why a Written Constitution?

September 1	Declaration of Independence and NJ Constitution of 1777
September 3	Articles of Confederation

**Week 2 Foundations and the Founding**

September 8 **NO CLASS MEETING**  
September 10 The Constitution and selections from The Federalist and Anti-Federalist Papers

**Week 3 Federalism**

September 15 Orin Kerr, "How to Read a Legal Opinion"  
The Bill of Rights  
The Virginia and Kentucky Resolutions  
Barron v. Baltimore (1833)  
September 17 The Charter of the City of Newark  
Gibbons v. Ogden

**Week 4 Citizenship and Property**

September 22 Slaughterhouse Cases  
Hoyt v. Florida  
September 24 Charles River Bridge v. Warren River Bridge  
Henry Winslow Williams, "An Inquiry into the Nature and Law of Corporations"  
Controversies over the First Bank of the United States

**Week 5 Slavery**

September 29 Territories Clause, New States admission clause  
*The Personal Memoirs of Daniel Drayton*  
October 1 Oakes on Abraham Lincoln and Frederick Douglass  
Dred Scott v. Sandford  
Emancipation Proclamation

**Week 6 Native American Dispossession and Treaties**

October 6 Treaty of Fort Stanwix  
October 8 Selected readings

**Week 7 The Right to Vote**

October 13 Harper v. Virginia  
Baker v. Carr  
Reynolds v. Sims  
Shaw v. Reno  
Vieth v. Jubelirer

October 15 Bush v. Palm Beach County Canvassing Board  
Bush v. Gore

**Week 8 The Fourteenth Amendment**

October 20 Akhil Reed Amar, "The Bill of Rights"  
Texas v. White  
The Civil Rights Cases  
United States v. Morrison  
City of Boerne v. Flores

October 22 Mapp v. Ohio  
Gideon v. Wainwright  
Miranda v. Arizona

**Week 9 Is Our System Ethical?**

October 27 Citizens United v. Federal Election Commission  
US v. Sun-Diamond Growers  
McDonnell v. US  
Kelly v. US

October 29 US v. Nixon  
The Emoluments Clause  
Legislative history and use of the Senate filibuster  
Articles of impeachment against William J. Clinton and Donald J. Trump

**Week 10 "Teach the Controversy"**

November 3 ELECTION DAY \*\*Class will meet Asynchronously\*\*  
Evolution and Creationism  
Epperson v. Arkansas  
Edwards v. Aguillard  
Autobiography of Clarence Darrow; Scopes Monkey Trial transcript selections

November 5 Reno v. ACLU  
Ashcroft v. ACLU  
Burwell v. Hobby Lobby Stores

**Week 11 Whose Environment?**

November 10 Who Has Standing?  
Sierra Club v. Morton

November 12 Who Can Pollute?  
Exxon Shipping Co. v. Baker  
Michigan v. EPA

**Week 12      Global Warming**

November 17      David Wallace Wells, "The Uninhabitable Earth"  
November 19      Massachusetts v. EPA  
                         American Electric Co. v. Connecticut  
                         Juliana v. United States

**Week 13      Jurisprudence for the future**

November 24      Jedidiah Purdy, "On Nature"

**Week 14      Final Project work**

December 1  
December 3

**Week 15      Final Project work**

December 8  
December 10

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