Course Description:
Constitutions are everywhere. In the United States, the federal constitution seems to frame and scaffold every civic question we face. Its words ring in our ears: “We the People…,” “…respecting an establishment of religion…,” “…the equal protection of the laws.” Yet we rarely consider what the constitution—or any constitution—is actually supposed to accomplish. What are its aims, and how should it structure political life? Why should a democratic society even have a constitution? How are constitutions made, and how do they change? What is the significance of national constitutions in a globalizing world?

This seminar explores the theory and practice of constitutionalism. It sits at the crossroads of political theory, comparative politics, and public law. This is not a course in U.S. constitutional law. Although the U.S. will serve as a recurring case study, we will not be reading many Supreme Court opinions, or discussing familiar doctrinal subjects like free speech or equal protection. (For students interested in the major doctrines of U.S. constitutional law and their history, I recommend Government 1510 with Professor Fallon). Instead, we will be exploring normative and empirical questions about the purpose, design, implementation, and evolution of constitutions in democratic (and democratizing) nations.

The course is divided into four parts. In the first, we take up a pair of bedrock theoretical questions: What Is a Constitution? And What Is It For? Our efforts to answer these questions acquaint us with leading theories of constitutionalism, and with some of the major differences among national constitutions. In unit two, we turn to the politics of Making and Changing Constitutions. Here we explore questions of legitimacy and institutional design, and evaluate the idea of popular constitutionalism. In addition, we analyze several recent experiments in constitutional creation and amendment. Unit three is devoted to the various challenges of Implementing Constitutions. We consider the question of the legitimacy of judicial review, as well as the competing approaches to constitutional interpretation (including approaches dominant outside the U.S.). In addition, we study how institutions other than high courts contribute to the (de)stabilization of constitutions. Finally, in unit four we consider National Constitutions and International Politics, focusing on the influence of treaties and other international standards on domestic constitutional politics.

Requirements and Grading:
- **DISCUSSION** (30%). Thoughtful participation in class discussion is essential. This means, in the first place, that faithful attendance and completion of all readings before class is required. (Please note that I will call on students individually with questions about the assigned readings.) Students will be evaluated not only for the quantity but the quality of their contributions. Remember that the most meaningful forms of participation go beyond summarizing the course material or advancing opinions without argument. High-quality
discussion typically involves: (i) raising questions that clarify the stakes of (or that otherwise illuminate) the issues under discussion; (ii) making connections between the readings and the lines of debate that have emerged in class discussion, especially across weekly meetings; (iii) developing substantive criticisms of the arguments or analysis found in the course materials, without making ‘straw men’ of them; (iv) proposing novel lines of argumentation, even if these are tentative or incompletely developed; and/or (v) marshaling new bits of evidence to help us evaluate the theories or interpretations under consideration.

• MEMO & PRESENTATION (20%). Each student will serve as “discussant” during one meeting of the seminar. (Dates will be assigned during our first session.) The discussant has two jobs. His or her first job is to prepare a 1-2 page memo for the class, emailed to the instructor by 10am on the day of the relevant session. (Memos submitted after 10am but before class will receive half-credit; memos not submitted before the beginning of class will receive zero credit.) This memo will be distributed as a handout at the beginning of class. It should begin to place the readings into conversation, and should articulate three clear questions for discussion. Discussion questions must not have obvious answers; their purpose is not to test whether we have done the reading, but to get us thinking about questions not explicitly raised in the readings. The discussant’s second job is to kick off the discussion with a 10-minute oral presentation at the beginning of class. In substance, this presentation should roughly mirror your memo: please plan to make a few key connections between the readings, and then pose your three discussion questions.

• FINAL PAPER (50%). The seminar culminates in a 20-25 page research paper, due on the date listed by the Registrar as our final exam date. Your research paper should be a sustained exploration of some topic related to the theme of the course; it should address a clear, specific question about the theory or politics of constitutions, and develop an original argument in response. Your research question may be primarily normative or primarily empirical. If the latter, consider what evidence you will offer in support of the argument—numerical data, analyzed using quantitative methods? one or more interpretive case studies? Whatever the research question, your paper should engage with at least two of our assigned texts, plus at least two other sources not on the syllabus. To help students progress toward a successful final paper, two intermediate tasks will be required. First, each student should pitch a final paper idea to the instructor (in office hours) before our seventh class meeting. Second, each student should submit a 3-4 page prospectus by 5pm on the Friday before our eleventh class meeting. This prospectus should include a clear statement of your research question, and a preview of your likely answer, including a discussion of any data, methods, or argumentative strategies you plan to use in the final paper. (Successful completion of these two tasks will account for 10% of your course grade; the remaining 40% will be determined by your final paper.)

Readings and Resources:
Most assigned readings will be made available in electronic format on the course website. An indispensable online database of constitutional texts can be found at www.constituteproject.org. The course has only one required text. Students should acquire a copy of the following book, which will also be placed on reserve at Lamont Library: Mark A. Graber, A New Introduction to American Constitutionalism (New York: Oxford University Press, 2013).
Electronic Devices:
Laptops, tablets, mobile phones, and other devices may not be used in class. Students who violate this policy will be asked to leave immediately.

Collaboration and Academic Integrity:
The discussion of ideas is integral to learning in this course. Students are encouraged to engage with one another, and with the course material, in conversation outside the classroom (including in study groups). However, written work should always be your own. It is appropriate to talk through your ideas and test out your arguments on other class members, but not to incorporate their words directly into your writing without attribution. All sources must be cited, and the contributions of others clearly acknowledged. Please follow the notes and bibliography system outlined in the *Chicago Manual of Style*. This course is governed by the Harvard College Honor Code:

Members of the Harvard College community commit themselves to producing academic work of integrity – that is, work that adheres to the scholarly and intellectual standards of accurate attribution of sources, appropriate collection and use of data, and transparent acknowledgement of the contribution of others to their ideas, discoveries, interpretations, and conclusions. Cheating on exams or problem sets, plagiarizing or misrepresenting the ideas or language of someone else as one’s own, falsifying data, or any other instance of academic dishonesty violates the standards of our community, as well as the standards of the wider world of learning and affairs.

Academic Accommodations:
Students seeking reasonable accommodation because of a documented disability should speak to me as soon as possible, presenting their Faculty Letter from the Accessible Education Office (AEO). All discussions will remain confidential, though I reserve the right to consult the AEO regarding appropriate implementation.
COURSE PLAN
(This is all but certain to change. Some readings will be classified as recommended.)

UNIT I: What Is A Constitution? And What Is It For?

Week 1 Introducing the Concept of a Constitution


Week 2 Democracy, Liberty, and Constitutional Purposes


Week 3 Constraining Ourselves, Managing Risks


UNIT II: Making and Changing Constitutions

Week 5 Constitution-Making and Legitimacy


Week 6 How to Build a Constitution


[ DEADLINE to pitch final paper idea: before Week 7 ]

**Week 7** Amendments and Beyond


Ackerman, Bruce. *We the People: Foundations*. Cambridge, MA: Harvard University Press, 1993. (chs. 1, 10)


**Week 8** Disharmony, Imperfection, and Evolution


**UNIT III:** Implementing Constitutions

**Week 9** Judicial Review


**Week 10** How to Read a Constitution


[ **DEADLINE for final paper prospectus: 5pm Friday before Week 11** ]

**Week 11** Implementation Beyond Courts


**UNIT IV: National Constitutions, International Politics**

**Week 12** Constitutional Politics Across Borders
