

Law, Constitutions, and Governance in American History, 1700–1990

Professor Gautham Rao

Fall 2025

Course Description

How have Americans governed themselves? This is the central inquiry in this course, which spans American history from colonial times until the recent past. We focus on the delicate balance between the people, the law, and the state, amid epochal changes, structural shifts in economy and society, and the rise of new intellectual and jurisprudential frameworks. The course features case studies, including studies about empire, constitutionalism, police power, racism and nativism, civil rights, and rights revolutions to examine how Americans have affixed the location of legal and political authority; to decide who gets to wield legal and constitutional authority; and which parties have been marked off as subjects of state power. Readings draw on classics of legal and political thought as well as powerful new approaches to American legal history.

Course Readings

1. Williams, Kidada. *I Saw Death Coming: A History of Terror and Survival in the War Against Reconstruction*. New York: Bloomsbury, 2023.

Course Requirements

- Watch all course lectures
- Complete all course readings
- Submit five short papers (500 words each)
- Contribute to nine discussion boards
- Participate in at least three Q&As
- Complete a 15-page (~3,750 words) research paper or project of appropriate rigor
- Complete a course evaluation (A survey link will be sent to your Gettysburg email during week eleven of the semester.)

Learning Objectives

1. Students will be able to demonstrate broad knowledge of key historical events related to legal and constitutional history as well as conventional periodization.
2. Students will be able to explain foundational schools of thought that have shaped scholarly understanding of legal and constitutional history.
3. Students will be able to evaluate evidence and critique analytical claims in major works in legal and constitutional history.

Class Schedule

Week One: September 18: Law in Early America

Readings

- Jessica Marglin and Mark Letteney, "Legal Pluralism as a Category of Analysis," *Law and History Review* 42, no. 2 (May 2024): 143–153. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Christopher Tomlins, "The Many Legalities of Colonization: A Manifesto of Destiny for Early American Legal History," in Christopher Tomlins and Bruce H. Mann, ed., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 1–20. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Christina Snyder, "Andrew Jackson's Indian Son: Native Captives and American Empire," in Tim Alan Garrison and Greg O'Brien, ed., *The Native South: New Histories and Enduring Legacies* (University of Nebraska Press, 2017), 84–106. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- L. H. Roper, "Global Pursuits: English Overseas Initiatives of the Long Seventeenth Century in Perspective," in L. H. Roper et al., ed., *Agents of European Overseas Empire: Private Colonisers, 1450–1800* (Manchester University Press), 66–88.

Assignments

- Discussion Board Week One
 - First post due: Sunday, September 21
 - Second post due: Wednesday, September 24

Week Two: September 25: American Revolutions

Readings

- [Edward Randolph], Letter to the Commissioners for His Majesty's Customs, June 30, 1686, William Blathwayt Papers, Colonial Williamsburg Digital Library. ([A link to this reading can be found in the Week Two module.](#))
- Edmund S. Morgan and Helen M. Morgan, *The Stamp Act Crisis: Prologue to Revolution* (Chapel Hill: University of North Carolina Press for the Omohundro Institute of Early American History & Culture), 41–90, 150–186. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Michael D. Hattem, "Revolution Lost? Vast Early America, National History, and the American Revolution," *William and Mary Quarterly* 78, no. 2 (April 2021): 269–274. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

- Gautham Rao, *National Duties: Custom Houses and the Making of the American State* (Chicago: University of Chicago Press, 2016), Introduction, Chapter 1. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Discussion Board Two
 - First post due: Sunday, September 28
 - Second post due: Wednesday, October 1
 - Short Paper One due: Wednesday, October 1
 - Write a response paper: You can respond to the prompt created by your section professor or to one of your own design.
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Week Three: October 2: From Revolution to Republic

Readings

- George Washington to Henry Knox, February 3, 1787. ([A link to this reading can be found in the Week Three module.](#))
- Paul Finkelman, *Supreme Injustice: Slavery in the Nation's Highest Court* (Cambridge: Harvard University Press, 2018), 11–25. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Saul Cornell and Gerald Leonard, *The Partisan Republic: Democracy, Exclusion, and the Fall of the Founder's Constitution, 1780s–1830s* (New York: Cambridge University Press, 2019), 1–83.

Assignments

- Discussion Board Three
 - First post due: Sunday, October 5
 - Second post due: Wednesday, October 8
- Final Project/Paper Question due: Wednesday, October 8
 - In roughly 1–2 pages, outline the question your final project or paper will attempt to answer. This should include a description of the paper or project you are proposing, some background information and historical context on your topic, a brief description of your research plan, and a justification for why your particular project or paper is worth pursuing.

Q&A Session One: Monday, October 6 at 8:00 p.m. ET

Week Four: October 9: Institutional Development in the North

Readings

- Jonathan Levy, *Freaks of Fortune: The Emerging World of Capitalism and Risk in America* (Cambridge: Harvard University Press, 2012), 7–20. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Gautham Rao, *National Duties: Custom Houses and the Making of the American State* (Chicago: University of Chicago Press, 2016), Chapters 2–5. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Naomi R. Lamoreaux and John Joseph Wallis, "Economic Crisis, General Laws, and the Mid-Nineteenth-Century Transformation of American Political Economy," *Journal of the Early Republic* 41, no. 3 (Fall 2021), 403–34. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Discussion Board Four
 - First post due: Sunday, October 12
 - Second post due: Wednesday, October 15
 - Short Paper Two due: Wednesday, October 15
 - Write a response paper: You can respond to the prompt created by your section professor or to one of your own design.
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Week Five: October 16: Natives, Slavery, and Constitutional Conflict in the Early Republic

Readings

- Henry Henegar to Ed Porter Thompson, October 25, 1897, Tennessee State Library and Archives. ([A link to this reading can be found in the Week Five module.](#))
- Sally Greene, "State v. Mann: Lydia's Journey," *Black Perspectives*, February 23, 2022. ([A link to this reading can be found in the Week Five module.](#))
- Samantha Seeley, *Race, Removal, and the Right to Remain: Migration and the Making of the United States* (Chapel Hill: University of North Carolina Press, 2021), 1–99, 171–172, 280–316. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Discussion Board Five
 - First post due: Sunday, October 19
 - Second post due: Wednesday, October 22
- Revised Question and Proposed Bibliography due: Wednesday, October 22

- Revise your initial proposal to incorporate your section professor's feedback AND
- Create an annotated bibliography containing at least five sources. Each of these sources should be followed by a short paragraph describing the source and what it will contribute to your final project/paper.

Q&A Session Two: Monday, October 20 at 8:00 p.m. ET

Week Six: October 23: The Civil War and Reconstruction

Readings

- Alexander H. Stephens, Cornerstone Speech, March 21, 1861. ([A link to this reading can be found in the Week Six module.](#))
- Ulysses S. Grant and Carl Schurz, *Grant and Schurz on the South: Letter of General Grant Concerning Affairs at the South, and Extracts from a Report by Carl Schurz Submitted to President Andrew Johnson, and by Him Communicated to Congress, December 19, 1865* (Washington, 1872). ([A link to this reading can be found in the Week Six module.](#))
- Gregory Downs, *After Appomattox: Military Occupation and the Ends of War* (Cambridge: Harvard University Press, 2015), 1–10, 89–112, 161–210, 237–254. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Discussion Board Six
 - First post due: Sunday, October 26
 - Second post due: Wednesday, October 29
- Short Paper Three due: Wednesday, October 29
 - Write a response paper: You can respond to the prompt created by your section professor or to one of your own design.

Q&A Session Three: Monday, October 27 at 8:00 p.m. ET

Week Seven: October 30: Jim Crow and Reconstruction

Readings

- James K. Vardaman Election Advertisement, Lucius Marion Lampton, MD Historical Images Collection, Special Collections Department, Mississippi State University. ([A link to this reading can be found in the Week Seven module.](#))

- Dylan C. Penningroth, "Race in Contract Law," *University of Pennsylvania Law Review* 170, no. 5 (May 2022): 1199–1215. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Kidada Williams, *I Saw Death Coming: A History of Terror and Survival in the War Against Reconstruction* (New York: Bloomsbury, 2023), xi–36, 150–257.

Assignments

- Discussion Board Seven
 - First post due: Sunday, November 2
 - Second post due: Wednesday, November 5
- Short Paper Four due: Wednesday, November 5
 - Write a response paper: You can respond to the prompt created by your section professor or to one of your own design.

Week Eight: November 6: Capitalism and Legal Reform

Readings

- Roscoe Pound, "The Scope and Purpose of Sociological Jurisprudence [Concluded]. III. Sociological Jurisprudence," *Harvard Law Review* 25, no. 6 (April 1912): 489–491, 516. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- William J. Novak, *New Democracy: The Creation of the Modern Administrative State* (Cambridge: Harvard University Press, 2022), 1–107, 259–271. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Project/Paper Preview due: Wednesday, November 12
 - Project: Submissions of the project preview will differ from project to project according to type. Determine an appropriate portion of your final project to turn in with your section professor.
 - Paper: Turn in a rough draft of the first five pages of your final paper.

Week Nine: November 13: The New Deal

Readings

- National Recovery Administration, "Give a Man a Job" (1933). ([A link to this video can be found in the Week Nine module.](#))

- Romain Huret, Nelson Lichtenstein, and Jean-Christian Vinel, ed., *Capitalism Contested: The New Deal and Its Legacies*, 1–16 (Introduction); 19–41 (K. Sabeel Rahman, “Transcending the New Deal Idea of the State”); 42–58 (Timothy Shrenk, “Inventing the American Economy”); 59–74 (Jason Scott Smith, “The Triumph of the Mixed Economy”); 97–111 (Karen M. Tani, “The Unanticipated Consequences of New Deal Poor Relief”). ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Stacey Lynn Camp, “Landscapes of Japanese Internment,” *Historical Archaeology* 50, no. 1 (2016), 169–186. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Discussion Board Eight
 - First post due: Sunday, November 16
 - Second post due: Wednesday, November 19
- Short Paper Five due: Wednesday, November 19
 - Write a response paper: You can respond to the prompt created by your section professor or to one of your own design.

Q&A Session Four: Monday, November 17 at 8:00 p.m. ET

Week Ten: November 20: The Civil Rights Movement

Readings

- Melinda D. Anderson, “The Forgotten Girls Who Led the School-Desegregation Movement,” *The Atlantic*, May 30, 2018. ([A link to this reading can be found in the Week Ten module.](#))
- Brief of the Family of Heman Sweatt as *Amicus Curiae* In Support of Respondents, *Abigail Noel Fisher v. University of Texas at Austin*, No. 14–981 (2015), 1–20. ([A link to this reading can be found in the Week Ten module.](#))
- Risa L. Goluboff, *The Lost Promise of Civil Rights* (Cambridge: Harvard University Press, 2010), 1–15, 198–272. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Rough Draft due: Wednesday, November 26
 - Project: Submissions of the project rough draft will differ from project to project according to type. Determine an appropriate portion of your final project to turn in with your section professor.
 - Paper: Turn in a rough draft of the first ten pages (at minimum) of your final paper.

Week Eleven: November 27: The Rights Revolutions**Readings**

- George Chauncey, "'What Gay Studies Taught the Court': The Historians' Amicus Brief in *Lawrence v. Texas*," *GLQ: A Journal of Lesbian and Gay Studies* 10, no. 3 (2004), 509–538. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge: Harvard University Press, 2015), 1–57, 186–240. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))

Assignments

- Discussion Board Nine
 - First post due: Sunday, November 30
 - Second post due: Wednesday, December 3

Q&A Session Five: Monday, December 1 at 8:00 p.m. ET

Week Twelve: December 4: The Long Backlash**Readings**

- Anthony Michael Kreis, "The Reagan Revolution and the Right's New Order," in *Rot & Revival: The History of Constitutional Law in American Political Development* (Oakland: University of California Press, 2024), 104–143.
- Erwin Chemerinsky, *Worse Than Nothing: The Dangerous Fallacy of Originalism* (New Haven: Yale University Press, 2022), ix–43. ([This reading can be accessed through Musselman Library with your Gettysburg College credentials.](#))
- Patrick J. Sobkowski, "The Unitary Executive and Politics," forthcoming, *Ohio Northern University Law Review* (2025). ([A link to this reading can be found in the Week Twelve module.](#))

Assignments

- Final Project/Paper due: Wednesday, December 10

Course and Program Policies

It is the responsibility of students to know, understand, and abide by course and program policies.

For a full overview of program policies, review the Gettysburg College–Gilder Lehrman Institute Student Handbook.

Course correspondence

Correspondence with faculty and administrators should be formal. Include a subject line, addressee, and closing. Put the name and number of your course in the subject line.

Plagiarism and AI

This program uses Turnitin to check for instances of plagiarism and AI. Plagiarism and papers composed fully or in part by AI will not be tolerated. This includes self-plagiarism. A student caught plagiarizing or composing papers with AI for the first time may receive a zero on the assignment. A student caught plagiarizing or composing with AI for a second time may be permanently removed from the program.

Your section professor will set the policies for use of AI for research or purposes other than composing your papers.

Late work

Assignments should be submitted no later than 11:59 p.m. Pacific Time on the due date unless otherwise specified by your section professor. If you think you will be unable to submit an assignment on time, it is your responsibility to contact your section professor to ask for an extension before the assignment's due date. Late assignments will be docked 5% if less than a week late, 10% if one week late, and an additional 10% for each subsequent week.

Grading scale

Letter Grade	Number Grade	Grade Points
A	95%–100%	4
A-	90%–94%	3.67
B+	87%–89%	3.33
B	84%–86%	3
B-	80%–83%	2.67
C+	77%–79%	2.33
C	74%–76%	2
C-	70%–73%	1.67

D+	67%–69%	1.33
D	64%–66%	1
D-	60%–63%	.67
F	0%–59%	0

Assignment Descriptions

Short Papers (25% of grade – 5% per short paper)

Students will complete five short papers. Each should be approximately 500 words long. The purpose of these papers is not to merely summarize weekly readings but to demonstrate that you have read them analytically and contextually. Students have the option of responding to a prompt created by their section professor or to one of their own design. Prompts should reflect the themes discussed in course readings. If you need help getting started, you can complete one of the options listed below.

Complete a thesis identification - Select one of your assigned readings and focus on identifying the thesis as well as the evidence the authors use to support that thesis.

Complete a primary source evaluation - Evaluate a primary source from the Gilder Lehrman Collection or elsewhere. Primary sources must be relevant to that week's readings. Keep the following questions in mind:

- Who is the author of this document?
- Who was their intended audience?
- How might both author and audience impact the content of the document?
- For what reason was this document created?

Complete a book review - Focus on one of the secondary sources assigned in this course and critique it. Keep the following questions in mind:

- What is the author's argument?
- Does the author adequately support their argument?
- Are you convinced of their argument? If not, why not?
- How does this source fit into the larger discussion of its topic?

Discussion Board Posts (18% of grade – 2% per discussion board)

Students will interact in 9 discussion boards in this course. Discussion boards are led by section professors, who will provide specific instructions for participation in their section. You are required to make at least one post to each discussion board and respond to **at least two other students**.

Question-and-Answer Sessions (15% of grade – 5% per reaction)

Throughout the semester the lead professor of each course will conduct five Q&As. Students **MUST** attend at least three of these sessions for each course they are taking. **In order to receive credit for attending each Q&A, you must complete a 1–2-paragraph Q&A Reaction within 24 hours of participation.** Note: If you cannot attend three of the five Q&As, you may receive credit by viewing archived Q&As and completing a 500-word review of topics covered for each missed Q&A. **Makeup assignments must be completed within two weeks of the missed Q&A.**

Final Project/Paper (42% of grade)

For the final assignment of each course, you will choose to complete either a research project or 15-page research paper. Research projects are a public-education tool designed for the general population, teachers, and/or students of varying ages. Sample projects include (but are not limited to) vodcasts and podcasts, documentary editing and transcription, websites, annotated readers, walking tours, or museum exhibits. Lesson plans *will not* be accepted. A 5-page paper narrative must accompany the project. Your section professor must approve research projects.

The research paper can be a traditional position paper that uses original research to prove a thesis statement or a historiography paper that critically examines how American historians have interpreted the same event differently and why shifts in historical debates may have occurred.

Both final assignment options require you to ask an open-ended historical question (something that does not have an easy yes or no answer) that you do not yet know the answer to. You will then use the research process (pulling from a variety of resources, mostly primary source documents) to explore that question and create a thesis-driven answer. Regardless of whether you choose to pursue a project or paper, finals are scaffolded throughout the semester. This method breaks up a large grade into smaller constituent grades and allows time to incorporate instructor feedback into assignments.

Scaffolded Assignments

- Final Project/Paper Proposal (2%)

In roughly 1–2 pages, you should outline the main question, topic, or purpose of your final project or paper. This should include a description of the project or paper you are proposing, some background information and historical context on your topic (answer the questions who, what, where, and when), a brief description of your research plan (this does not need to be super specific, but should outline how many weeks you plan to research, if you need to schedule research trips or if your sources are published or available digitally, and when you plan to begin writing) and a justification for why your particular project or paper is worth pursuing (what is the significance of this topic? What does it add to our historical knowledge? Are you

filling a gap that other historians have overlooked such as considering race, ethnicity, or gender?)

- Revised Proposal and Annotated Bibliography (3.5%)

This assignment will give you the opportunity to incorporate the feedback you received on the first draft of your proposal. In addition to incorporating your section professor's comments, you will also submit a proposed bibliography listing five sources you plan on utilizing in your research for your final product. Each of these sources should be followed by a brief summary (3–5 sentences) of the source and what it will contribute to your research process.

- Project or Paper Preview (5%)

This will give you the opportunity to show the progress you have made on your final project or paper and get some early-stage feedback from your section professor. For a final project, determine with your section professor an appropriate portion of your final submission to turn in. For a final paper, this should be roughly the first five pages of what will ultimately be your final submission.

- Rough Draft (10.5%):

For a final project, determine with your section professor an appropriate portion of your final submission to turn in. For a final paper, this should be, at minimum, the first ten pages of what will ultimately be your final submission.

- Final Product (21%):

Final Project: Much like the final paper option, a final project is meant to prove that you have mastered the content covered by this course. We encourage you to be creative in your approach to this project, though it should be equivalent in rigor and workload to a final paper.

Final Paper: Final papers should be at least fifteen pages in length. These can take the form of research papers or historiography papers.