

CGCL 6300: FOUNDATIONS OF AMERICAN LIBERTY
(2 credits)

Professor: Troy E. Smith

Summer 2024 (July 8-12)

Meeting time: 9:30 AM – 4:00 PM (break at 12:00 – 1:30 PM)

Location:

Office:

Office Phone:

Email:

COURSE OVERVIEW

The U.S. Constitution proclaims in its preamble that a purpose of the Constitution is to “secure the blessings of liberty”. What is meant by liberty? How has the meaning of this word changed over the years? What are the blessings of liberty? How does government secure the blessings of liberty?

At the height of the Civil War, Abraham Lincoln noted that we lack a good definition of liberty. He said, “We all declare for liberty; but in using the same word we do not all mean the same thing. With some the word liberty may mean for each man to do as he pleases with himself, and the product of his labor; while with others the same word may mean for some men to do as they please with other men, and the product of other men’s labor. Here are two, not only different, but incompatible [sic] things, called by the same name—liberty. And it follows that each of the things is, by the respective parties, called by two different and incompatible [sic] names—liberty and tyranny” (Address at Sanitary Fair, 1864). Lincoln’s observation is still relevant in the 21st century: we lack a good definition of liberty.

Some claim liberty is freedom from external or unchosen constraints, or, in other words, the ability to do as I want. Under this theory, government usually bears the responsibility for clearing away or bearing those external or unwanted constraints, (i.e., responsibilities). Government is assisted in this by technology, which allows government to oversee society and intervene when necessary, and for people to escape unwanted constraints, such as marriage, work, and even nature, such as one’s biological sex.

Others think liberty requires restraints or limits. They argue that if one tries to live without limits or constraints, then one will likely soon find themselves slaves to their passions or enslaved to others more powerful. They also note that few if any are capable of complete independence and that we are dependent to some extent on others. For that dependence to be symbiotic rather than subordinate or parasitic requires limits to one’s behavior. If they correct, then liberty possesses a

dual nature – it entails some aspects of independence and elements of constraints, limits, or rules if liberty is to endure. What specifically those limits are is disputed.

Philosophers provide some valuable insights on liberty’s viability. In classical philosophy, Plato favored totalitarian government, because few possess the intelligence or self-discipline to rule themselves. Rather, he claimed, they should develop perfect obedience to a wise and benevolent philosopher king. Aristotle thought a political system based on popular rule was possible, but it was Machiavelli who established the modern idea of liberty as independent from the arbitrary rule of another. His goal was to make genuine republican government possible whereby individuals govern themselves in their public and private lives. In political terms, this meant equal participation in shaping the rules and laws that govern one’s society. A political system based on this idea of liberty is called popular government, government by the consent of the people, democracy, majority rule, or “self-government”.

The problem with popular governments, however, is that majority rule can be as tyrannical as any monarch, democracies can commit suicide democratically, and consenting people may vote themselves into slavery. Popular governments, consequently, are insufficient to protect liberty, security, or justice.

America’s founding fathers understood these problems and devised solutions. They innovated and created a form and system of government untested elsewhere. They thought the value of liberty justified testing whether a people entrusted with the power to govern could rule themselves. Hamilton (*Federalist* #1), Madison (*Federalist* #39), Lincoln (Gettysburg Address), and many of the other founding fathers described America as an experiment in self-government. It is an experiment for all mankind because it is based on the “rights of man” not the rights of a few, a class, a race, a religion, a nation nor an ethnic group (Mansfield, *America’s Constitutional Soul*). Though designed by a few, it was debated, ratified, and, ultimately, chosen by the people.

This course examines the roots of that experiment in self-government by examining key texts from the classical liberal tradition and modern theories to understand what liberty is, what makes it viable, and some threats to liberty’s perpetuation.

OBJECTIVES

By the end of the semester, students should have accomplished the following:

1. Demonstrate they can extract and describe the core arguments of the authors from the assigned readings, and analyze those arguments both sympathetically and critically.
2. Explain the various definitions of liberty and distinctions between liberty and freedom.
3. Explain the dual nature of liberty, i.e., why liberty needs limits, rules, order, and self-control and the theories and philosophies that support and oppose that perspective.
4. Describe the key threats to liberty and proposed solutions along with the limitations or problems of those solutions (e.g., anarchy, coercion, security; the problem of collective action; justice and judgment; equality; government; big business; expressive individualism).
5. Explain institutional solutions used to protect/preserve liberty.

6. Explain the relationship between responsibility and liberty.
7. Describe key theories that explain how liberty functions to bless and benefit society.
8. Demonstrate mastery of the above topics.

POLICIES

ACADEMIC INTEGRITY:

Any work submitted by a student is done under the implied claim that the person who submits and signs the paper is also its author in whole and in all parts. Students are expected to be familiar with and adhere to the university's regulations concerning academic honesty. A copy of those policies is provided at the links after these paragraphs. Read them. Violation of these guidelines will result in a severe penalty that may include a failing grade in the course and referral to the appropriate university judicial authority.

Penalties will be imposed for *inadvertent* as well as deliberate plagiarism. Since inadvertent plagiarism is not fully intentional, you need to be aware of what it is. It is easy to cut-and-paste material from the Internet, summarizing a source's logic, evidence, reasoning or language. When you do this, you are obliged to acknowledge *in the main body of the paper* that you are doing so, and not merely with a within-text citation. You need to say something like "Smith says that..." even when you paraphrase. Putting in a citation at the end of a series of directly paraphrased sentences is NOT adequate. The same thing goes for following the order of another person's argument and evidence. Summarizing another person must be acknowledged, and close paraphrasing should be rare. When you paraphrase closely, you probably should be quoting. And merely copying the other person's footnotes is NEVER appropriate because it suggests that you did not verify the original source on your own. When you do want to do a second-degree citation like this, it should read: Jones, p. 133 as cited by Smith, p. 221.

If your paper turns out to be a series of quotes and paraphrases, and if you give all of the proper references using words of acknowledgment as well as within-text citations, then it will not be plagiarized. It will not be considered dishonest. So far, so good – but that is still not enough to make a paper satisfactory. Compiling a series of quotes and paraphrases – even if properly acknowledged – will not be enough to do a passable job. A paper must be made up of and organized around *your* thoughts – your thesis, reasoning and evidence, phrased in your words and serving your paper's end.

If you have any questions about this while writing, it is your responsibility to ask in advance.

Links: ??? – link to the UVU policy

(Note: The above section on Academic Integrity was written by my mentor, Dr. Michael Malbin, and slightly modified by me.)

CHATGPT, AND OTHER AIs:

Because any work submitted by you presumes that you are the author in whole and in all its parts, the use of Large Language Models (LLMs), like ChatGPT and other AI, to write your discussions, responses, summaries, or papers is a violation of the Academic Integrity policy.

An important outcome from attending graduate school is learning how to think and communicate clearly about the topics you are studying. This learning comes from wrestling with the material to make sense of it and explain it *in your own words*. This may be a challenge at the beginning, but, as you apply yourself to the task, it will become easier. Using LLMs to do your work will delay and possibly impair this important learning.

Hence, do NOT use an LLM to write your notes, summaries, discussion comments, discussion responses, or papers. You can use it to generate ideas (though I would do this sparingly and with caution for what it produces), improve your writing (by examining what it changes in your writing to see how you can improve your writing on your own), or to tutor you in the topics (with caution – I find that ChatGPT is wrong about 15% of the time but knowing which 15% is difficult if you are not familiar with the material). The unauthorized use of LLMs will result in significant point deductions and may violate UVU's plagiarism policy.

ATTENDANCE:

Attendance in class, on time, is expected. Students who miss two or more hours of class without an appropriate excuse will be penalized significantly in their final grades. This could range from a full letter on the final grade to failing the course.

LATE PAPERS AND ASSIGNMENTS:

All assignments are due on the date *and at the time* assigned. Excuses will be accepted *only* for an *adequately documented* illness or emergency. Nothing prevents the student with a known scheduling conflict from reading ahead and completing the assignment early. Unexcused assignments will be penalized at the rate of one full letter grade (for example from B+ to C+) for each 24-hours, with the first 24-hours beginning when the assignment was due.

SPECIAL NEEDS:

Reasonable accommodations will be provided for students with documented physical, sensory, systemic, cognitive, learning and psychiatric disabilities. If you believe you have a disability requiring accommodation in this class, please notify the [??? Director of the Disability Resource Center]. That office will provide the course instructor with verification of your disability, and will recommend appropriate accommodations.

ABSENCE DUE TO RELIGIOUS OBSERVANCE:

Students are excused, without penalty, to be absent because of religious beliefs, and will be provided equivalent opportunities for make-up examinations, study, or work requirements missed because of such absences. Students should notify the instructor of record *in advance*, and the instructor will work directly with students to accommodate religious observances.

ASSIGNMENTS & GRADING

TEXTS

The Founders' Constitution, Volume One: Major Themes, edited by Philip B. Kurland and Ralph Lerner (Liberty Fund, 2000) (\$12.99 on [Amazon.com](https://www.amazon.com))

F.A. Hayek, *Constitution of Liberty* (University of Chicago Press, 2011) (Amazon.com has two editions: this is [mine](#) (\$29.18), here is the [other](#) (\$18.99))

Kass, Kass, Schaub, editors, *What So Proudly We Hail* (ISI Books, 2011) (\$20.39 on [Amazon.com](https://www.amazon.com))

Other readings available on Canvas.

GRADING

Class Participation	35%
Journal	15%
Class Presentations	15%
Course Exam	35%

CLASS PARTICIPATION (35%)

As mentioned in the “Policies” above, attendance in class, on time, is expected. UVU expects students to spend two hours preparing for class for every one hour in class – more time may be required for students who lack a background in the subjects or who wish to do excellent work. Given the condensed nature of this course, most of your out-of-class work will need to be done before the course begins. Then, before each class, you should review your reading notes to be prepared to participate in discussions for that day. 35% of your course grade is based on your attendance and participation in class discussions. Please consult this syllabus for required and recommended readings, and preparation questions to guide your reading.

JOURNAL (15%)

You are required to keep a journal (electronic or paper) of your readings and course experience that you will submit at the end of the course (it will be returned to you). Your journal should contain two types of entries: short reading summaries of the assigned readings, and a reflective entry at the end of each day.

The short reading summaries identify the main claim of the reading and its supporting reasons; it may also include the historical roots of that claim, an assessment of the argument, and the likely implications of if the claim is accepted. Note: The final exam’s essay will test how well you developed these skills.

The journal’s reflective entries (350 words, minimum) describe what you learned in that day’s classes. The entries should summarize the main ideas, themes, and connections that were explored that day. I strongly encourage you to also write down the ideas you may want to explore later in a research paper.

CLASS PRESENTATIONS (15%)

At the beginning of each class session, I will randomly call on a student to summarize a reading or readings for that class session. These presentations will be graded on their clarity and concision in identifying the readings' primary claim and supporting reasons, accurately assessing the argument's supporting reasons, and identifying likely implications if the argument is accepted. Presentations should last 3-5 minutes.

COURSE EXAM (35%)

There will be a final exam to test your mastery of the course material. The final exam will include multiple choice, short-answer, and essay questions.

Grading scale: A: 93-100 (4.0); A-: 90-92 (3.67); B+: 87-89 (3.33); B: 83-86 (3.0); B-: 80-82 (2.67); C+: 77-79 (2.33); C: 73-76 (2.0); C-: 70-72 (1.67); D+: 67-69 (1.33); D: 63-66 (1.0); D-: 60-62 (0.67); E: 0-59 (0.0).

Grades of Incomplete will only be awarded for reasons explained in the university's guidelines. See ???-incomplete grade policy.

CLASS SCHEDULE

All of the readings listed on this syllabus are required reading, unless noted as "Recommended." Recommended readings are for students wishing to learn more about that specific topic. Readings with an asterisk (*) are available on Canvas.

I am assuming that students in this class are familiar with the concepts of natural law, natural rights, constitutionalism, separation of powers, federalism, and the four primary philosophical/religious influences on American constitutionalism (covenant theory, natural law, republicanism, and liberalism). If you are not familiar with these, then you should review your notes from CGCL 6100.

Monday 8 June:

10:00-11:15 –

What is at stake?

Listen: Bari Weiss, "Rising Antisemitism and Choosing Freedom", Honestly Podcast, (4/22/2024) - <https://www.honestlypod.com/podcast/episode/2c2aea3a/rising-antisemitism-and-choosing-freedom>

Questions: (1) According to Bari Weiss, what are the principles that support freedom that identifies in her speech? Is she missing any other fundamental principles that support freedom? (2) Why or how do these things support freedom? (3) While Weiss is speaking to Jewry she says her argument applies to everyone who desires freedom. Do you agree? (4) What are the threats to liberty that Weiss identifies and what is necessary to overcome those threats? (5) Is freedom in America as threatened as Weiss claims or is she being alarmist? (6) How do you answer Weiss's question about why people without freedom are able to marshal the strength to overcome their captivity and gain freedom while those with great freedoms become disenchanted with their freedoms to the point of favoring slavery? What kind of slavery is she referring to here? (7) Weiss labels the college protests as antisemitic, but others

claim they are merely pro-Palestinian. Who is more correct – are anti-Israeli protests always antisemitic or is the claim that they are pro-Palestinian and not antisemitic a Motte-and-baily fallacy?

The Dual Nature of Liberty

Readings:

- (1) *Mansfield, “Chapter 10: Choice and Consent”, *America's Constitutional Soul*, [7]
- (2) Hayek, chapter 1, *Constitution of Liberty* [11]
- (3) Cato’s Letters, no. 68 (1721) (*Founders' Constitution*, ch. 16, no. 4) [1]
- (4) *Martin Gurri, "The Future of Freedom" [9]
- (5) *Kant "What is Enlightenment?" [3]

Review:

- (6) McLaughlin, Ch. 5 "The Courts and the Rights of Judicial Review; The Reign of Law", *Foundations of American Constitutionalism*, pp. 104-128 (from CGCL 6100)
- (7) *Jonathan Sacks, “Deuteronomy: A Covenant Society” (from CGCL 6100)
- (8) *Aristotle and Cicero (from CGCL 6100)

Questions: (1) How do the above authors define liberty? (2) What is the dual nature of liberty? Can freedom and self-government exist and be sustained without limits? If not, what limits are necessary for liberty? How do those limits differ from the limits imposed by slavery? Does too little restraint inevitably result in tyranny? (3) What is wrong with defining liberty as political freedom and liberty as power, according to Hayek? Do you agree? (4) Does Kant’s definition of enlightenment support or contradict the other authors’ ideas of what is necessary for liberty? Is his support for Prince Frederick and opposition to republican government required by his ideas or is there a Straussian reading possible here?

Recommended:

- (1) Benjamin Constant, "Liberty of Ancients and Moderns" - <https://www.earlymoderntexts.com/assets/pdfs/constant1819.pdf>
- (2) Consent of the People:
 - a. Demophilus, *The Genuine Principles of the Ancient Saxon, or English Constitution* (Philadelphia, 1776), pp. 1-17 (<https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;rgn=main;view=text;idno=N11656.0001.001>)
Note: This is a Whig view of history that favors government by consent as exemplified by the Saxon government.
 - b. Thomas Gordon, *Cato’s Letters*, no. 38 (22 July 1721)
 - c. James Burgh, *Political Disquisitions* (1774) (*Founders’ Constitution*, ch. 2, no. 6)
- (3) Acemoglu and Robinson, *The Narrow Corridor: States, Society, and the Fate of Liberty* (2019) - need for state capacity but also need to control the state to protect liberty.

11:15-12:30 Lunch Break

12:30-1:45 *Fundamentals: Freedom, Human Nature, the Commercial Republic*

Readings:

Freedom

- (1) *Locke, Letter Concerning Toleration [4]
- (2) Hayek, ch. 2 “The Creative Powers of a Free Civilization”, *Constitution of Liberty* (pp. 22-38) [16]

Human Nature: How does freedom not become anarchy?

- (3) Federalist #10 - first 6 paragraphs (*Founders' Constitution*, ch. 4, no. 19) [1]
- (4) Federalist, #55 – last paragraph, provided here:
“As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us faithful likenesses of the human character, the inference would be, that there is not sufficient virtue among men for self-government; and that nothing less than the chains of despotism can restrain them from destroying and devouring one another.” [1]
- (5) "Jefferson, letter to Thomas Law, 13 June 1814) [3]
<https://founders.archives.gov/documents/Jefferson/03-07-02-0307#:~:text=take%20from%20man%20his%20selfish,the%20source%20of%20moral%20action> [2]
- (6) *Nagel, “The Objective Basis of Morality” from *What Does It All Mean? A Very Short Introduction to Philosophy*.

The Commercial Republic

- (7) *Machiavelli in Muir, "Introduction", *Freedom in America* - 14 [5]
- (8) Montesquieu: commerce bk. 20, chs. 1-8 (*Founders' Constitution*, ch. 4, no. 2, pp. 99-101) [2]
- (9) Hume: Of Commerce (1752) (*Founders' Constitution*, pp. 101-103) [4]
- (10) Jefferson, Notes on the State of Virginia, Query 19, 164-5 (*Founders' Constitution*, pp. 118-9) [1]
- (11) Hamilton, Report on Manufactures (1791) (*Founders' Constitution*, p.139-40) [2]
- (12) Paine, Rights of Man, Part 2 (1792) (*Founders' Constitution*, ch. 4, no. 32 (p. 140)
- (13) skim - Locke, on property (*Founders' Constitution*, pp. 580-585 [8]

Recommended:

- (1) Human Nature and Moral Relativism
 - a. *James Q. Wilson, "The Moral Sense" *APSR* (March 1993), p. 1-11
 - b. Jonathan Haidt, *The Righteous Mind*
 - c. C.S. Lewis, *The Abolition of Man*
 - d. For a selection of readings that affirm and refute moral relativism see *Vice and Virtue in Everyday Life: Introductory Readings in Ethics* ed. by Christina Sommers and Fred Sommers (2004), pp. 156-208).
- (2) Natural Right: Leo Strauss, *Natural Right and History*
- (3) Natural Law: Kooper & Dyer, *The Classical and Christian Origins of American Politics*

Questions: (1) Locke and Hayek are classical liberals who put a primary value on liberty. According to them, why should liberty be valued? Do they agree or disagree on the foundation or justification for liberty? (2) Is human nature compatible with, harmful to, or inconsequential to liberty? (3) The ancients considered commerce a necessary evil, but Machiavelli places commerce at the center of a liberal society. Why, or what is the benefit of commerce to liberty? Can commerce threaten liberty?

Discuss: the power of reciprocity

1:45-2:30 Break

2:30-3:45 *Case Studies: Spain (coercion), France (rationalism), England (sentiment) Therapy vs. Responsibility*

Readings:

(1) Hayek, *Constitution of Liberty*, ch. 4 (pp. 54-70) [16]

Recommendations:

(1) Stephen Toulmin, *Return to Reason* (2001)

(2) Alasdair MacIntyre, *After Virtue* (1981)

Discuss: Spain vs. England (top-down vs. bottom-up); France vs. England (rationalism vs. sentiment)

Questions: (1) How does a government based on rationalism differ from one based on sentiment? (2) How does rationalism differ from reasonable (e.g., Toulmin)? How does sentiment differ from emotivism (e.g., MacIntyre)? (3) What are the advantages and disadvantages of each system in relation to liberty? (4) Is one better or worse for sustaining liberty in a modern, globalized, technocratic society?

Tuesday 9 June:

10:00-11:15 am *Liberty in Colonial America (1620-1776)*

Readings:

(1) Hayek, ch. 9 “Coercion and the State”, *Constitution of Liberty* (pp. 133-47) [14]

(2) *Agreement of the Settlers at Exeter in New Hampshire (1639) in *Colonial Origins of the American Constitution*, p. 3-4 [2]

(3) Roger Williams, Letter to the town of Providence (Jan. 1655) - https://press-pubs.uchicago.edu/founders/documents/amendI_religions6.html [1]

(4) The Body of Liberties of the Massachusetts Collonie in New England (1641), (*Founders' Constitution*, ch. 14, no. 2 [2])

(5) William Penn (*Founders' Constitution*, ch. 14, no. 3; ch. 14, no. 5) [3]

(6) Otis, “The Rights of the British Colonies Asserted and Proved” (*Founders' Constitution*, ch.2, no.5; ch. 13, no. 4) [2]- Consider also Otis, “Writs of Assistance”

(7) Slaves' Petition to Governor, et. al (*Founders' Constitution*, ch. 14, no. 9) [1]

(8) Abigail Adams (*Founders' Constitution*, ch. 15, nos. 9, 10, and 12) [2]

- (9) skim: Joseph Warren "Massacre" - <http://www.drjosephwarren.com/2015/03/warren's-1775-boston-massacre-oration-in-full-text-our-country-is-in-danger-but-not-to-be-despaired-of/>

Questions: (1) Is coercion necessary to preserve liberty? (2) When does coercion go too far and threaten liberty? (3) Are some people (e.g., genders, races, classes) incapable of liberty?

Discussion: Coercion (apply yesterday's lessons on human nature, Spain, France, and England). Wyandotte vs. Jesuits– [name of the American Indian who influenced Europe in the 16th c.] contrast with how a Jesuit priest behaves on p. 423, footnote 12 of Hayek's *Constitution of Liberty*.

11:15-12:30 Lunch Break

12:30-1:45 *Independence: Articles of Confederation to the Constitution*

Readings:

- (1) Continental Congress, Declaration and Resolves (14 Oct. 1774) (*Founders' Constitution*, ch. 1, no. 1) [3]
- (2) Declaration of Independence (*Founders' Constitution*, ch. 1, no. 5) [3]
- (3) Articles of Confederation (*Founders' Constitution*, ch. 1, no. 7) [3]
- (4) Constitution (*Founders' Constitution*, ch. 1, no. 9) [7]
- (5) *Federalist* #9 (*Founders' Constitution*, ch. 4, no. 18, ch.8, no. 15)
- (6) *Federalist* #10 (*Founders' Constitution*, ch. 4, no. 19)
- (7) *Federalist* #14 (*Founders' Constitution*, ch. 4, no. 22)
- (8) *Federalist* #22 (*Founders' Constitution*, ch. 5, no. 23) [12]
- (9) Brutus, No. 1 (18 Oct. 1787) (*Founders' Constitution*, ch. 4, no. 14) [3]
- (10) Washington, To the Hebrew Congregation in Newport, RI, *What So Proudly We Hail*, pp. 62-3 [2]

Questions: What lessons about what is necessary to preserve liberty did Americans learn from reading history and from experience? What is the liberty that the Constitution protects? How is liberty understood by the founding generation?

1:45-2:30 Break

2:30-3:45

Readings:

- (1) Hayek, ch. 10 "Law, Commands, and Order", *Constitution of Liberty*, pp. 148-61 [14]
- (2) Hayek, ch. 11 "Origins of Rule of Law", *Constitution of Liberty*, pp. 162-175 [12]
- (3) Hayek, ch. 12: "American Contribution: Constitutionalism", *Constitution of Liberty*, pp. 176-192 [16]

Recommended:

- (1) Bryan Garsten, *Saving Persuasion*
- (2) Cassandra (James Cannon), *Maryland Gazette* (Annapolis), May 2, 1776. [For a discussion of the debate see Schlesinger, *Prelude to Independence*, p. 262-3.]

Questions: (1) Hayek claims “law is the basis of liberty”. Please explain what this means. (2) How are laws different from commands? (3) What kind of order is created from good laws? How is that order different from the order created by commands? (4) Define “rule of law” and explain what it requires? (5) Thomas Hobbes argues that justice is whatever the law says. Does Hayek’s explanation of “rule of law” agree or disagree with that idea? (6) What is a constitution and how does it differ from regular laws? (7) What are the fundamental elements in the U.S. Constitution that preserve liberty? How does each contribute to preserving liberty? (8) Can institutions control politicians sufficiently to prevent arbitrary power?

Wednesday 10 June: Liberty in Twentieth-Century America

10:00-11:15 am – *Dignity and Justice*

Readings:

- (1) Franklin, "Autobiography", pp. 185-192 [7]
- (2) Douglas, "The Last Flogging" [8]
- (3) Lincoln, "The Perpetuation of Our Political Institutions", *What So Proudly We Hail*, pp. 253-61) [7]
- (4) Martin Luther King, Jr. "Letter from a Birmingham Jail", *What So Proudly We Hail* (pp. 262-76) [14]
- (5) Susan Glaspell, "A Jury of Her Peers," *What So Proudly We Hail* (pp. 277-295) [17]

Recommended:

- (1) Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* (1970)
- (2) Bryan Garsten, *Saving Persuasion*
- (3) Leon Kass, *Life, Liberty, and Dignity: The Challenge for Bioethics* (2003)

Questions: (1) What is human dignity? What is its source? Is dignity important for liberty? – does dignity require liberty or does liberty create dignity? (2) What does the law require? Are there limits to the law?

Discuss: Human dignity, Hirschman: exit, voice, and loyalty; moral power (persuasion) and demagoguery, and debate rules for disagreements (e.g., Rappaport’s rules).

11:15-12:30 Lunch Break

12:30-1:45 – *Progressives and the Administrative State*

Readings:

- (1) *Wilson, *Congressional Government* [4]
- (2) *Tocqueville and Marx, (Muir, ch. 7) [4]
- (3) *Croly - *Promise of American Life* [20]
- (4) Teddy Roosevelt, "New Nationalism" speech (1910) - <https://teachingamericanhistory.org/document/the-new-nationalism-3/>
- (5) Hoover, "Challenge to Liberty" (1936) - <https://hooverpresidentialfoundation.org/speeches/challenge-to-liberty/>
- (6) FDR: "Four Freedoms" State of the Union address (1941) - <https://d1lexza0zk46za.cloudfront.net/history/am-docs/roosevelt-four-freedoms.pdf>

- (7) Wickard v. Filburn - <https://teachingamericanhistory.org/document/wickard-v-filburn/>
- (8) *William Graham Sumner, "Forgotten Man" [13]
- (9) Hayek, ch. 13 "Liberalism and Administration the 'Rechtsstaat', *Constitution of Liberty* (pp. 193-204) [11]
- (10) Hayek, *Constitution of Liberty* (pp. 114-117) [4]

Recommended:

- (1) Recommended: Hayek, ch. 7 "Majority Rule", *Constitution of Liberty*, pp. 103-117 [14]
- (2) Hayek, "Chapter 16: The Decline of the Law", *Constitution of Liberty*, pp. 234-249
- (3) Charles Kessler, chapter 7, *Crisis of the Two Constitutions*

Questions: (1) What are the primary values and objectives of the Progressives? (2) What threats to liberty do the Progressives see? (3) How does the Progressive understanding of the rule of law and the Constitution differ from previous generations? (4) What is the cause of this change? (5) What are the consequences of these changes?

1:45-2:30 Break

2:30-3:45 *Darwinism, Big Business & Big Government*

Readings:

- (1) *Richard Hofstadter, "Introduction", *Social Darwinism in American Thought* (1944), pp. 3-12 [9]
- (2) *Irving Wyllie, "Social Darwinism and the American Businessman" (1959), pp. 629-635 [6]
- (3) Coolidge, "Speech on the Occasion of the 150th anniversary of the Declaration of Independence", *What So Proudly We Hail*, pp. 681-690 [8]

Recommended:

- (1) Melville, "Bartleby, The Scrivener: A Story of Wall Street," *What So Proudly We Hail*, (pp. 392-423) [30]
- (2) *Carnegie, "Gospel of Wealth"
- (3) Richard Pipes, *Property and Freedom* (1999) (see "The welfare state", pp. 225-233, and last chapter: "Portents")
- (4) Rothbard - "Left and Right"
- (5) Robert C. Bannister, "'The Survival of the Fittest is our Doctrine': History or Histrionics?", *Journal of the History of Ideas* (1970) v. 31, no. 3, pp. 377-398.
- (6) C.S. Lewis, "Willing Slaves of the Welfare State: Is Progress Possible" - http://liberty-tree.ca/research/willing_slaves_of_the_welfare_state

Discuss: Gabriel Kolko, *The Triumph of Conservatism* (big business controls gov't); Murray Rothbard *The Progressive Era* (Progressives' good intentions destroy small businesses); Richard Hofstadter (Progressives control gov't)

Questions: (1) What is social Darwinism? (2) How influential was/is social Darwinism in society? (3) How does Darwinism (and similar theories) transform human understanding and

what makes meaning for them? (4) Does Darwinism and similar philosophies of materialism and nihilism influencing society today?

Thursday 11 June: 20th Century

10:00-11:15 am – Fairness & Equality

Readings:

- (1) *Rawls – *Justice as Fairness* [16]
- (2) *Kekes, "Assault on a Fine Ideal", *The New Criterion*, (Feb. 2008), pp. 25-31 [6]
- (3) Hayek, ch. 5: "Responsibility and Freedom", *Constitution of Liberty*, pp. 71-84 [13]
- (4) Hayek, ch. 6 "Equality, Value, and Merit," *Constitution of Liberty*, pp. 85-102 [17]

Recommended:

- (1) Nozick, "Robert Nozick's Political Philosophy", *Stanford Encyclopedia of Philosophy* - <https://plato.stanford.edu/entries/nozick-political/>
- (2) John Kekes, *The Illusion of Egalitarianism*

Discuss: Threats to liberty: the administrative state, and social engineering.

Questions: (1) What is justice (e.g., equality, merit, social)? (2) How does our definition of justice affect our understanding of, and support for, liberty? (3) Is human nature compatible with Rawls' ideal society, that is would humans accept those conditions? (4) Is the nature of information and human capacity sufficient for knowing and controlling enough to achieve Rawls's society?

11:15-12:30 Lunch Break

12:30-1:45 – *Complexity Theory*

- (1) *Capra and Luisi, *The Systems View of Life*, Selected readings on science and complexity (Cambridge University Press, 2014) [6]
- (2) *Elinor Ostrom, *Governing the Commons*, ch. 1 – don't worry about the details of how the different theories function, focus on the problems of collective action and the proposed solutions. [27]

Questions: (1) What are the limits of science? (2) How does science differ from systems and complexity theory? (3) Describe the collective action problems (e.g., tragedy of the commons, free rider, prisoners' dilemma)? (4) What solutions are generally offered to solve these collective action problems? (5) What is wrong with the science supporting those solutions? (6) Why might these solutions not work well, according to Elinor Ostrom? (6) What is Ostrom's proposed solution?

1:45-2:30 Break

2:30-3:45 - *Complexity Theory* (cont'd)

Readings:

- (1) *Capra and Luisi, *The Systems View of Life*, selections and ch. 14 [33]
- (2) Hayek, ch. 10 "Law, Commands, and Order", *Constitution of Liberty*, pp. 148-161 [13]

Questions: (1) What is autopoiesis, emergence, and self-organization? (2) What do scientific and traditional theories of sociology miss about human organizations and society that systems theory identifies? (3) Systems theory focuses on “nonmaterial” characteristics – What does “nonmaterial” mean? What are these characteristics? Are they real? Are there other “nonmaterial” elements that science dismisses? (4) How are human societies “emergent”? (5) Are the emergent societies in systems theory similar to or different from the spontaneous orders that Hayek says result from general rules? (6) Does the U.S. Constitution provide the basis for emergent or spontaneous order? What about other ideas of governance we have discussed in this class (e.g., Progressives)?

Recommended:

- (1) Polanyi, *The Logic of Liberty*
- (2) Postrel, *The Future and Its Enemies*
- (3) Rene Girard - mimetic desire - https://mimetictheory.com/mimetic-desire/?utm_source=substack&utm_medium=email;
https://bookhaven.stanford.edu/2023/06/rene-girard-100-stanfords-provocative-immortal-comes-of-age/?utm_source=substack&utm_medium=email

Consider: Confucius and Marcus Aurelius both said something like: the first duty of a leader is to call things by their proper names. Why is that the first duty of leaders? What do they expect to happen after that?

Friday 12 June:

10:00-11:15 am – *Truth and Notions of the Self*

Readings:

- (1) JFK’s Inaugural address - <https://www.archives.gov/milestone-documents/president-john-f-kennedys-inaugural-address>
- (2) Barry Goldwater, Accepting the Republican Presidential Nomination (1964) - <https://nationalcenter.org/ncppr/2001/11/04/barry-goldwaters-republican-convention-speech-1964/>
- (3) *R. Carter Snead, "An Anthropological Solution", *What It Means to be Human* (2020), pp. 65-105 [40]

Recommended:

- (1) Kolakowski, "Looking for the Barbarians", *Modernity on Endless Trial*
- (2) Carl R. Trueman, *Strange New World*

Questions: (1) How has the popular understandings of the “self” changed in the 20th and 21st centuries? (2) How has the modern understanding of “self” shaped the popular understanding of liberty? (3) How does the modern idea of liberty differ from the founding generation’s understanding of liberty? (4) Is this idea of liberty sustainable?

11:15-12:30 Lunch Break

12:30-1:45 *Can liberalism be neutral?*

Readings:

- (1) *Muir, "Tocqueville's Warning",
- (2) Hayek, ch. 14 "Safeguards of Individual Liberty", *Constitution of Liberty*, (pp. 210-219) [10]
- (3) *Mansfield, *America's Constitutional Soul*, "ch. 15: Constitutional Government: The Soul of Modern Democracy" [11]

Recommended:

- (1) Kolakowski, "Where are Children in Liberal Philosophy", *My Correct Views on Everything* (2005), pp. 257-268 [11]
- (2) Alexander Solzhenitsyn, "A World Split Apart" - <https://tikvahfund.org/wp-content/uploads/2021/08/Solzhenitsyn-Harvard-Address.pdf>

Questions: (1) What is basis of liberty? (2) What are blessings of liberty? (3) What is required for liberty to be sustained? (4) What holds a nation together? What makes liberty and nationhood (or community) possible?

1:45-2:30 Break

2:30-3:45 Exam