

# Course # | Congress

## Description

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Americans consistently report less satisfaction with the U.S. Congress than almost any other major institution in American public life. It is associated with gridlock and gamesmanship instead of cooperation and statesmanship. What explains Congress's unpopularity, and to what extent is it deserved? Why is it so hard for a bill to become a law, even when it has broad popular support? Why is the process of lawmaking so byzantine, filled with filibusters and amendments, procedural votes and logrolling? Is the Congress we have the one the Founders envisioned? Is it the legislative institution America deserves?

This course offers a sustained examination of the powers and limitations of the U.S. Congress. It explores the origins and historical development of Congress, the liberal political theory that shaped its design, and the institution's modern operations. This is paired with a sustained normative analysis of Congress as an institution and constitutionalism as a political philosophy. Methodologically, the course combines philosophical, historical, qualitative, and formal analyses to illuminate the present-day structural and behavioral forces that shape U.S. policymaking. Taking this course will leave you with a deep understanding of the balance of power between the branches, their interests and strategies for exercising their powers, and the consequences of all this for American democracy.

## Assignments

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- (1) *Reading Critique*: Sign up to write one 1,000-word critique of a reading sometime over the course of the semester. This should both summarize and evaluate the reading. While your evaluations should take a position on the reading—i.e., do you agree or disagree?—they should also attempt to situate the article in the wider context of both the course as a whole and the section we are studying at that time. A critique does not necessarily mean the same thing as criticism. Strong criticism can often stand in the way of subtlety and depth. If you decide to be strongly critical, you should be sure to be critical in a way that still does justice to the author's argument. Moreover, although you are responsible for summarizing the reading, a summary is not the same thing as a “play-by-play” of the reading. A good summary should be able to convey the essence of the reading without giving all the details. Fill in details only insofar as it is necessary to explicate the essential points. The best way to approach these critiques is to think of yourself as the teacher. What should students know from your reading? What questions should they ask about it? Finally, your critique should introduce questions and topics that would be useful and important for the class as a whole to take up in discussion. On the day that we cover the reading you critiqued, you should also be prepared both to summarize the reading and to facilitate the class's discussion of this material: you will actually become the teacher! Also, if writing on more than one reading, you should feel free either to concentrate entirely on one reading or to write an integrative analysis of all of them. This should be posted to the course site forty-eight hours before the class on which the reading is due to give those who will critique it time to write their critiques.
- (2) *Peer Critique Responses (x2)*: In order further to facilitate productive discussion in class, you will also be responsible for writing two 1-page critiques of your peers' critiques over the course of the semester. These should evaluate and react to the main arguments that your classmate has made in their critiques. You should answer the following kinds of questions: Do they misunderstand the reading? Do they overstate the author's case? Do they understate it? Is their disagreement justified?
- (3) *Response Essay (x2)*: The readings for each class are accompanied by two or three reflection questions. Sign up for two classes for which you will compose a 1000-word response paper to one question for that date. Papers are due by 11:59 PM one week after the class to which you are responding.
- (4) *Simulations/Case Studies (x3)*: Two in-class simulations and a case study will take place throughout the semester. In addition to participating in these activities, you will be asked to respond to several short reflection questions about the experience.
- (5) *Final Exam*: A closed-book, open-note final exam will be held during the university's exam period. It will consist of short essay questions covering the material of the course as a whole.

## Course Schedule

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### Introduction: Congress as Public Enemy?

- 01.
- Toobin, Jeffrey. 2013. "Our Broken Constitution." *The New Yorker*.
  - Smith et al., "The Troubled Congress," in *The American Congress*: 1–32.
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### Congress & The Constitution

- 02.
- U.S. Constitution (esp. Article I).
  - Smith et al., "Representation and Lawmaking in Congress: The Constitutional and Historical Contexts," in *The American Congress*: 44-50.
  - Stewart, "The Constitutional Origins of Congress," in *Analyzing Congress*: 58-88.
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### The Liberal Tradition: Separation of Powers & Legislative Supremacy

- 03.
- Montesquieu, *The Spirit of the Laws*, Book 11, Chapters 1–6.
  - John Locke, *Second Treatise*, Chapters 10–13.
  - *The Federalist*, No. 10, 39, 47–51.
  - Waldron, "Separation of Powers and the Rule of Law," in *Political Political Theory*: 45–71.
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### Theories of Representation

- 04.
- Thomas Hobbes, *Leviathan*, Chapter 16.
  - Edmund Burke, "Speech to the Electors of Bristol," 3 Nov. 1774.
  - Brutus, No. 1.
  - Melancton Smith, 6/20-6/27-88.
  - *The Federalist* No. 52 – 58, 62.
  - Rakove, Jack N. 1997. "The Mirror of Representation." In *Original Meanings: Politics and Ideas in the Making of the Constitution*. New York: Vintage Books, 203-243.
- 

### Representative Lawmaking

- 05.
- *The Federalist*, No. 10, 39 (review)
  - Smith et al., "Representation and Lawmaking in Congress: The Constitutional and Historical Contexts," in *The American Congress*: 36-42.
  - J.S. Mill, "That the Ideally Best Form of Government is Representative Government," in *Considerations on Representative Government*.
  - Waldron, Jeremy. "Representative Lawmaking" and "Principles of Legislation" in *Political Political Theory: Essays on Institutions*. Cambridge, MA: Harvard University Press, 2016.
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### Bicameralism: The House vs. The Senate

- 06.
- *The Federalist*, No. 52, 53 (review), 35, 62-64.
  - Tocqueville, "The Legislative Power" and "On the causes That Can in Part Correct These Instincts of Democracy," in *Democracy in America*: 110–113 and 190–192.
  - J.S. Mill, "Of A Second Chamber," in *Considerations on Representative Government*.
  - Waldron, Jeremy. 2016. "Bicameralism and Separation of Powers" in *Political Political Theory*: 72–91.
- 

### The History and Development of Congress

- 07.
- Smith et al., "Representation and Lawmaking in Congress: The Constitutional and Historical Contexts," in *The American Congress*: 51-60.
  - Stewart, "The History and Development of Congress," in *Analyzing Congress*: 95-131.
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### The Electoral Connection

08.       ▪ Mayhew, *Congress: The Electoral Connection*, Forward, Preface, Introduction, Chapter 1.

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### The Campaign

09.       ▪ Sides, John, Daron R. Shaw, Matthew Grossmann, and Keena Lipsitz, eds. 2014. “Congressional Campaigns.” In *Campaigns & Elections: Rules, Reality, Strategy, Choice: 2012 Election Update*. New York: W.W. Norton and Company: 250–278.
- Thompson, Dennis F. 2013. “Deliberate About, Not In, Elections.” *Election Law Journal: Rules, Politics, and Policy* 12(4): 372–85.
- [SIMULATION: “Primaries”]

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### Districts & Gerrymandering

10.       ▪ *The Federalist*, No. 59-61.
- *Cato*, No. 7.
- McGann, Anthony J., Charles Anthony Smith, Michael Latner, and Alex Keena. 2016. “The Unnoticed Revolution.” In *Gerrymandering in America: The House of Representatives, the Supreme Court, and the Future of Popular Sovereignty*. Cambridge, UK: Cambridge University Press: 1–21.
- Stewart, “Regulating Elections,” in *Analyzing Congress*: 205-226.
- Thompson, Dennis F. 2002. *Just Elections: Creating a Fair Electoral Process in the United States*. Chicago, IL: University of Chicago Press: 38–53.
- For fun: [The Atlas Of Redistricting | FiveThirtyEight](#)

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### Campaign Finance

11.       ▪ *Citizens United v. FEC*, 558 U.S. 310, 372 (2010) [excerpts].
- Stewart, “Regulating Elections,” in *Analyzing Congress*: 226-244.

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### Voting, Incumbency, and Accountability

12.       ▪ Smith et al., “Congressional Elections,” in *The American Congress*: 78–87.
- Stewart, “The Choices Voters Make,” in *Analyzing Congress*: 175–199.

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### Members of Congress

13.       ▪ John Adams, “The Role of the Rich and the Poor in the Legislator” (Nichols 48); Alexander Hamilton, “On the Character of the Legislator” (Nichols 50)
- Manning, Jennifer E. 2022. *Membership of the 117th Congress: A Profile*. Congressional Research Service. <https://crsreports.congress.gov/product/pdf/R/R46705>.
- Volden, Craig, Alan E Wiseman, and Dana E Wittmer. 2010. “The Legislative Effectiveness of Women in Congress.” Center for the Study of Democratic Institutions. Working Paper 04-2010.
- Smith et al., “Members, Goals, Resources, and Strategies,” in *The American Congress*: 93–130.

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### Parties & Leaders in Congress

14.       ▪ Stewart, “Parties and Leaders in Congress,” in *Analyzing Congress*: 254-289.
- Theriault, Sean. 2006. “Party Polarization in the U.S. Congress: Member Replacement and Member Adaptation.” *Party Politics* 12 (4): 483-503.

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|     | <b>Committees in Congress</b>  |
| 15. | <ul style="list-style-type: none"> <li>Stewart, “Committees in Congress,” in <i>Analyzing Congress</i>: 294-352.</li> </ul>  |
|     | <b>The Rules of the Legislative Game</b>   |
| 16. | <ul style="list-style-type: none"> <li>Smith et al., “The Rules of the Legislative Game,” in <i>The American Congress</i>: 219-248.</li> </ul> <p>[SIMULATION: “Navigating the Parliamentarian”]</p>   |
|     | <b>The Budget</b>  |
| 17. | <ul style="list-style-type: none"> <li>Smith et al., “Congress and Budget Politics,” in <i>The American Congress</i>: 381–406.</li> </ul>  |
|     | <b>The Filibuster</b>  |
| 18. | <ul style="list-style-type: none"> <li>Binder and Smith, <i>Politics or Principle? Filibustering in the U.S. Senate</i>: Chapters 1 and 5.</li> </ul>  |
|     | <b>Unorthodox Lawmaking</b>  |
| 19. | <ul style="list-style-type: none"> <li>Sinclair, “Why and How the Legislative Process Has Changed” and “The Consequences of Unorthodox Lawmaking,” in <i>Unorthodox Lawmaking</i>: Chapters 6 and 10.</li> </ul>   |
|     | <b>Appointments &amp; Vetoes</b>   |
| 20. | <ul style="list-style-type: none"> <li><i>The Federalist</i>, No. 73, 76, 77.</li> <li>George Washington, Veto Message of April 5, 1792.</li> <li>Fisher, “Appointment Powers” and “Vetoes: Presidential and Legislative,” in <i>Constitutional Conflicts between Congress and the President</i>: 22-48 and 119-159.</li> </ul>  |
|     | <b>Impeachment</b>   |
| 21. | <ul style="list-style-type: none"> <li><i>The Federalist</i>, No. 65, 66.</li> <li>Tocqueville, “On Political Judgment in the United States,” in <i>Democracy in America</i>: 100–104.</li> <li>Black, <i>Impeachment: A Handbook</i>: 1-69.</li> </ul>  |
|     | <b>Oversight</b>   |
| 22. | <ul style="list-style-type: none"> <li><i>The Federalist</i>, No. 70.</li> <li>Fisher, “Power Over Knowledge: Seeking and Withholding Information,” in <i>Constitutional Conflicts between Congress and the President</i>: 160-195.</li> </ul> <p>[CASE STUDY: “Congressional Oversight and Presidential Prerogative: The 1991 Intelligence Authorization Act”]</p>  |
|     | <b>Foreign Affairs</b>   |
| 23. | <ul style="list-style-type: none"> <li><i>The Federalist</i>, No. 74, 75.</li> <li>Hamilton, Alexander, and James Madison. 2007. <i>The Pacificus-Helvidius Debates of 1793-1794: Toward the Completion of the American Founding</i>. ed. Morton J. Frisch. Indianapolis: Liberty Fund: [excerpts].</li> <li>Fisher, “The War Power,” in <i>Constitutional Conflicts between Congress and the President</i>: 256-294.</li> </ul> |
|     | <b>Nondelegation and the Administrative State</b>  |
| 24. | <ul style="list-style-type: none"> <li>Woodrow Wilson, “The Need for Cabinet Government” (Nichols 186).</li> </ul>   |

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- Lawson, Gary. 2005. "Discretion as Delegation: The 'Proper' Understanding of the Nondelegation Doctrine." *The George Washington Law Review* 73(2): 235–68.
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#### **Interpreting the Constitution**

- *The Federalist*, No. 80.
25.
  - Brutus, "The Problem of Judicial Review" (Nichols 51); Thomas Jefferson, "Against Judicial Review," (Nichols 52); Abraham Lincoln, "The Authority of the Supreme Court," (Nichols 53).
  - Quirk, *Courts & Congress: America's Unwritten Constitution*: 25–62.
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#### **The Happy Convention**

26.
  - Quirk, *Courts & Congress: America's Unwritten Constitution*: 97–152.
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#### **The Big Picture: Representation & Accountability**

27.
  - Gilens, Martin. 2009. "Preference Gaps and Inequality in Representation." *PS: Political Science & Politics* 42 (2): 335–41.
  - Waldron, Jeremy. "Accountability and Insolence," in *Political Political Theory: Essays on Institutions*. Cambridge, MA: Harvard University Press, 2016.
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#### **The Big Picture: Congress and Constitutionalism**

28.
  - Zeisberg, Mariah. 2004. "Constitutional Fidelity and Interbranch Conflict." *The Good Society* 13(3): 24–30.
  - Waldron, "Constitutionalism: A Skeptical View," in *Political Political Theory*: 23–44.
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