

**Freedom, Justice & Constitutionalism**  
**Senior Seminar in Political Theory & Constitutional Democracy**  
**MC 497-001**  
**James Madison College, Michigan State University**  
**Fall 2014**

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**Basic Course & Contact Info**

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**Days & Time:** MW, 12:40 – 2:30 pm

**Room:** 319L South Case Hall

**Course Management Site:** [d2l.msu.edu](http://d2l.msu.edu)

**Phone and Computer Policy:** Phones away and on airplane mode; no tablet and/or laptop use during class time unless you are presenting.

**Instructor of Record:** Ross B. Emmett

**Office:** 304 S. Case Hall

**Office Hours:** MW 3-5

**Preferred Method of Contact for Course-Related Questions:** Piazza discussion platform, available via D2L or Piazza.com (you will receive invitation to register)

**Email:** [emmettr@msu.edu](mailto:emmettr@msu.edu)

**Phone:** 517.432.6139

*Yes, I am on Facebook, but I am only “friends” with graduates, not current students! You can check out my website ([www.msu.edu/~emmettr](http://www.msu.edu/~emmettr)) or follow me on Twitter ([rossemmett](#)) and LinkedIn.*

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**Course Description**

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All students in the Political Theory and Constitutional Democracy field are required to complete MC 497. The course serves as the “capstone” experience of your undergraduate study of PTCD: an in-depth study of a selected problem in, or approach to, the theory of constitutional democracy, highlighted by the opportunity for the student to engage in a significant paper project. The course also serves as a bridge between your undergraduate study and your life-long participation as citizens, policy makers, lawyers, entrepreneurs, etc. in a liberal democracy.

**Official Course Description** (from the University Catalog): Selected problems in political theory and constitutional democracy. Relationship between theory and politics. Analysis of key thinkers. Case studies.

**Prerequisites & Restrictions:** MC 371 and completion of Tier I writing requirement; Open only to JMC seniors.

In MC 370 and MC 371 you confronted the demise of the Western tradition of liberalism at the end of the 19<sup>th</sup> century, and asked what might come after liberalism. In the aftermath of the following half-century of war that left Europe devastated, and following the emergence of progressive politics in the

USA, communism in the Soviet Union, and socialist movements almost everywhere else, the liberal tradition began a resurgence. Indeed, in the second half of the twentieth century the most important political philosophy books were efforts to recover the key insights of liberalism. Two of those books will be the focus of our attention in this course: F. A. Hayek's *The Constitution of Liberty* (1960); and John Rawls' *A Theory of Justice* (1971). These two works have become central texts for late twentieth century, and early twenty-first century, political philosophy, defining opposing positions on the relation of freedom to justice. Coincidentally, both authors have been honored in music: the Hayek-Keynes raps are famous, and 2013 saw the opening of a musical based on Rawls' book!

Rawls is often considered the most important philosopher of the 20<sup>th</sup> century and his work continues to inform philosophical investigations about social justice. In the dissertation that was to become his most famous book, Rawls calls for us to engage in a hypothetical "constitutional moment" in which a representative group steps back from their involvement in daily life to consider the acceptable tradeoffs between liberty and justice. Rawls assumed a framework of economic rationality to predict what outcomes the individuals acting in the constitutional moment would reach. Rawls' use of economic analysis to make a contribution to political philosophy brought both the disciplines closer together, and fostered a tradition of economic philosophy in which many other Nobel laureates in economics have participated: Kenneth Arrow, Amartya Sen, James Buchanan, and John Harsanyi, to name the most prominent.

Hayek won the Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel in 1974 for his economic work, founded the Mont Pèlerin Society – the intellectual forum for the subsequent revival of classical liberalism, and remained the central philosophical voice for that revival until his death in 1992. During the 1950s, while a Professor in the Committee on Social Thought at the University of Chicago, Hayek taught a seminar in "The Liberal Tradition" and wrote a book on the subject, called *The Constitution of Liberty*. In his famous book, Hayek argues that society's rules evolve in the context of actual social life without being explicitly designed (in a constitutional moment or otherwise!) to increase overall welfare. Yet, for Hayek the rules that survive are those that do maximize our welfare. Along the way, he argues that the concept of "social justice," so prominent in Rawls' work and philosophical justice even today, was vague and meaningless. His evolutionary argument has received a lot of attention among economists, game theorists, philosophers of anarchy, and other social scientists interested in the evolution of civil society and its institutions.

Recently, John Tomasi has attempted to bridge the gap between Hayek and Rawls with an argument is reminiscent of the work of Frank H. Knight, professor of economics at the University of Chicago, a friend of Hayek's, and a major influence on Rawls. Like Hayek, Tomasi values the evolutionary processes of social interaction, and recognizes the difficulty of knowing what the best social outcome could be prior to social interaction. But like Rawls, Tomasi believes some conception of social justice is meaningful and could inform social action. Thus, like Knight, Tomasi argues for "market democracy" – the freedom of markets with the deliberation of democracy. He calls his version of market democracy *Free Market Fairness* – the title of the book we will use to frame our reading of Hayek and Rawls. We will also, in between – the two major authors, read a couple of the relevant essays by Knight.

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## Overview of Course Requirements and Seminar Experience

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All course work will be graded on a percentage basis (out of 100%). On D2L, assignments and averages will also appear in percentages. Conversion to the university's 4-point scale will follow this chart:

94-100%	4	67-73%	2
87-93%	3.5	60-66%	1.5
80-86%	3	50-59%	1
74-79%	2.5	<50%	0

### Grading Weights

Short Paper/Presentation	10%
Response Papers (2)	10%
Hayek Essay	20%
Rawls Essay	20%
Major Paper	30%
Participation	10%

**Please note:** failure to turn in the major paper is equivalent to failure to complete the final exam without a satisfactory explanation, and is grounds for an automatic zero in the course, regardless of how well you may have done on other course requirements. Please consult with me *before* the due dates if issues arise that could prevent your completion of these requirements.

### The Seminar Experience

The “seminar” differs from lecture and other discussion-oriented formats because it assumes that *students take initiative and responsibility* for the material discussed and presented.

For each seminar meeting, you will:

- Prepare for each seminar meeting by reading the assigned reading;
- Participate actively in each seminar meeting;

For two of the seminar meetings, you will:

- Write a 3-5 page response paper;

For one seminar meeting, you will:

- Prepare a 5 page paper identifying the key issues in a particular reading to be discussed in class;
- Present those key issues at the beginning of class on the day that reading is assigned; and
- Moderate the ensuing discussion prior to our break

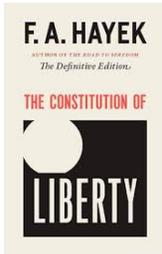
You will also write three papers: an essay on each of Hayek and Rawls, and a final essay on the themes of the course.

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## Required Reading

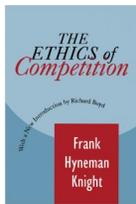
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*All books are available at SBS Bookstore, 421 E. Grand River Ave, East Lansing, MI 48823. Phone: 517-351-4210*



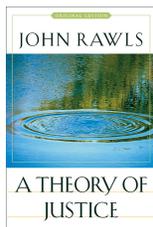
**Hayek, F. A., (2011), *The Constitution of Liberty: The Definitive Edition* (University of Chicago Press). Originally published in 1960.**

**NOTE:** Available in paperback and hardback. The original edition of 1960 (also available in paperback) is okay, but we'll use this edition in class.



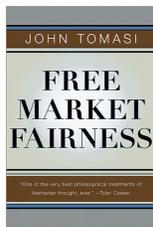
**Knight, Frank H. (1997), *The Ethics of Competition* (Transaction Publishers). Originally published in 1935.**

**NOTE:** The Transaction version is paperback and will be used in class. Other (usually older!) editions are fine (and identical in pagination); although probably more expensive if they are in decent shape.



**Rawls, John. (2005), *Theory of Justice: Original Edition* (Oxford University Press). Originally published in 1971.**

**NOTE:** Do not purchase *revised* versions of this classic. This version is the republication of the original edition. We will be using this edition in class. Available in multiple formats.



**Tomasi, John (2013). *Free Market Fairness* (Princeton University Press). Originally published in 2012.**

**NOTE:** We begin and end with Tomasi. Available in multiple formats.

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## Detailed Descriptions of Course Requirements

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### *Participation*

Most class periods will be spent discussing assigned reading; be prepared! Your participation grade will reflect your participation in class discussion on a regular basis. If you are not present in class, you cannot participate; if you are continually absent, your participation mark will necessarily be zero. Remember that the quality of one's remarks in class is as important as their quantity: frequent poor-quality comments will no more earn you full credit for participation than will attendance with little participation in discussion.

Here is a rough guide to my grading of participation (since frequent absences result in a participation grade of 0, I've deleted the bottom end of the grade descriptions): 63% (approximately 1.5/4.0) for no comments/questions in class even if attending regularly; 70% (2.0/4.0) for good attendance and some contributions; 73% (2.7/4.0) for good attendance and good contributions; 85% (3.2/4.0) for showing familiarity with the readings, leadership in the direction of class discussion occasionally and attending regularly; 97% (4.0/4.0) for regularly moving class discussion forward by providing productive comments based on the readings that contribute to discussion and also help others to enter/participate in the conversation.

My practice is to inform you around the middle of the semester about how I would evaluate your participation to that point. While you can discuss this grade with me, the best way to have an impact on the final grade is to change your participation during the latter half of the course. I will revise the participation grade at least once during the second half of the course, and will finalize the grade at the end of classes.

### ***Presentation and Paper***

Each student will have the opportunity to present an overview of the key issues in the reading assigned for one class period, and moderate the discussion for the remainder of the first hour of class time.

To prepare for the presentation, you will write a 5-page paper that identifies key issues from the reading that you believe deserve attention during class discussion of the reading. Papers prepared for Monday presentation are due by the Friday of the previous week; papers prepared for Wednesday presentation are due by the Monday before the presentation. Your paper should be emailed to me.

In class, you will summarize the key issues discussed in your paper (about 15 minutes), and then moderate the class discussion. While your primary responsibility after your presentation is to moderate discussion, I would suggest you create a set of questions based on your reading that you could use to prompt discussion if it lags.

Late papers will be penalized 15% if turned in between the due date and the evening before your presentation. If you do not turn in a paper by the evening of the day before your presentation, you will receive a zero on the paper and not be allowed to lead discussion. The professor will take over in your place.

The assignment of readings for your presentation, and for your response papers (see below), will proceed as follows. On the first day of class, students will draw a number. The attached schedule of presenters and responders determines the dates you will present. Trading "numbers" is allowed, but must be approved by both students within the week after Labor Day, and always includes the change in response dates as well as presentation dates.

### ***Response Papers***

Each student will have two opportunities to write a brief overview of the key issues in the reading assigned for one class period. Each response paper will be 3-5 pages in length. Response papers for readings may be turned in anytime before 11 pm on the evening before class discussion of the assigned reading. Your paper should be emailed to me. Failure to turn in a response paper before 11 pm the evening before class will result in an automatic zero on the response paper; that is, they may not be turned in after that point.

The schedule for response papers is included on the syllabus. Your assigned readings for the responses are determined in the same manner as the presentation, explained above.

### ***Essays***

Each student will write three essays in the course: one on Hayek, one on Rawls, and a final paper that ties together the themes of the course.

The Hayek paper will be 5-6 pages, and explore some aspect of Hayek's *Constitution of Liberty* that you wish to explore further.

The Rawls paper will be 6-8 pages, and explore some aspect of Rawls *Theory of Justice* that you wish to explore further.

The final paper provides you with the opportunity to write a major paper of 10-12 pages on your views on liberty and justice in a constitutional framework. In consultation with the professor, you will develop a thesis that draws upon several of our authors. The goal is not to summarize the debates of the course, but to make your own argument about our themes. The paper substitutes for a final exam, and will be turned in during finals week. Thus, the last possible time to turn in the paper is at noon on Friday, December 12.

*For all papers, the due date is the last possible time at which your essay may be turned in for full credit. Your essay should be emailed to me before the time specified on the course schedule. Late papers will be penalized 5% for each day late (weekends count as 1 day). Please read my guide to "How I Grade Papers" (available on D2L) for some indication of what I look for in papers, and how I will grade your performance.*

### ***Statement About the Use of Turnitin***

Consistent with MSU's efforts to enhance student learning, foster honesty, and maintain integrity in our academic processes, I have chosen to use a tool called Turnitin to compare your Hayek, Rawls, and Final papers with multiple sources. The tool will compare each paper you submit to an extensive database of prior publications and papers, providing links to possible matches and a "similarity score." The tool does not determine whether plagiarism has occurred or not. Instead, I will make a complete assessment and judge the originality of your work. All submissions to this course may be checked using this tool.

You should submit papers to Turnitin Dropboxes without identifying information included in the paper (e.g., name or student number), the D2L system will automatically show this information to me when I view the submission, but the information will not be retained by Turnitin. If you forget and submit your paper with your identifying information on it, it will be retained in the Turnitin repository.

Your submissions will be retained only in the MSU repository hosted by Turnitin.

In choosing to use Turnitin in our class, I have agreed to follow five guidelines. They are:

- I will use Turnitin as part of a balanced approach to encourage academic integrity and foster student success.
- I will openly disclose use of Turnitin in this course on the syllabus and at the time assignments are announced.
- For a given assignment, I will use Turnitin for all papers.
- I will make the final determination of originality and integrity.
- To ensure privacy, I will ask students to remove identification (e.g., names and student numbers) from submissions.
- If you have any questions about the use of Turnitin in this course, please bring them to my attention.

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## Expectations

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### *What you can expect from me*

My pedagogical goal in this course is to provide a structured environment in which you think about freedom, justice and their role in constitutional democracies. The focus will be on *your learning*, not *my teaching*. You learn by reading significant treatments of our themes, discussing these readings with your peers, writing extensively on topics related to the course, and having a person who can function as a resource for both your reading and your discussion. That resource person is the professor. I will guide the conversation upon occasion, and will participate in the discussion, because I can enhance your learning by those means; I will not lecture. I will be on time and will try to maximize our use of the time we have.

Whether led by me or by students, class discussion will spring from questions you have about the reading. Our focus will be on understanding the text, not applying them to current issues, although undoubtedly questions will arise that connect our primary task to the world around us.

You have a right to clear explanations of the expectations for assignments, and to prompt and adequate feedback about your performance. Information regarding my expectations for tests and other assignments will be provided in class and/or on D2L. General feedback regarding student performance will also be provided in class and on D2L. More specific individual feedback will be provided on your paper or exam, and you may come to talk about your performance during my office hours. You can expect me to give you the same opportunity to participate in discussion that I give to other students.

Your performance during university will be enhanced by contact outside the classroom with your professors. I welcome you to stop by my office early in the term to introduce yourself. I will respect my posted office hours, and can make appointments if the posted times are not convenient for you.

### *What I expect of you*

I expect you to attend class, to have read the assigned material in advance, and to have written a daily memo. I also expect you to come prepared for engagement in the discussion of topics related to the readings. Being engaged does not mean simply talking. Engagement with class discussion comes in many forms (sleeping or texting through class is not one of them!), and thoughtful contributions that advance our common understanding of constitutional political economy will be rewarded more than simply talking.

I also expect you will use the Piazza discussion platform as a means of both addressing questions you might have in the course, and discussing themes from readings/lectures/discussions that you wish to pursue further. I encourage you to both ask questions on Piazza and answer them when other ask.

I expect you to prepare carefully for each of the assignments. Take the time to sift through your ideas and your source(s) to identify a clear thesis and develop a clear argument to sustain that thesis. Edit and re-write your papers to ensure that their organization reflects the logic of the argument. I expect you already write well, and that you can proof-read to catch mistakes caused by hasty writing or not thinking through the structure of paragraphs and sentences.

I expect you to treat others with the same respect you expect from them. This version of the “Golden Rule” extends beyond your classmates to the individuals whom you are studying. I expect you to respect the rights of those whose ideas you utilize in your seminar paper and essay. Acknowledging the sources of your own ideas is an integral part of participation in a civil democratic society, especially in the academic context. That dreaded p-word – plagiarism – is ultimately an issue of respect. College and University policies regarding academic dishonesty will be enforced in this course (see the *College Student Handbook*).

**MC 497: Freedom, Justice & Constitutionalism Senior Seminar  
Fall 2014**

<b>Class Date</b>	<b>Reading to be Discussed</b>
Aug. 27	Course Introduction
<b>Sept. 1</b>	<b>No Class – Labor Day</b>
Sept. 3	Tomasi, <i>Free Market Fairness</i> , ch. 1
Sept. 8	Tomasi, <i>Free Market Fairness</i> , ch. 2
Sept. 10	Tomasi, <i>Free Market Fairness</i> , ch. 3
Sept. 15	Hayek, <i>Constitution of Liberty</i> , Introduction & Part 1, chapters 1-4
Sept. 17	Hayek, <i>Constitution of Liberty</i> , Part 1, chapters 5-8
<b>Sept. 22</b>	<b>Attend Freedom, Justice &amp; Constitutionalism Symposium</b>
Sept. 24	Hayek, “‘Social’ or Distributive Justice,” from <i>The Mirage of Social Justice</i> (course pack)
Sept. 29	Hayek, <i>Constitution of Liberty</i> , Part 2, chapters 9-12, and 14
Oct. 1	Hayek, <i>Constitution of Liberty</i> , Part 2, chapters 15 -16, and Part 3, chapter 17
Oct. 6	Hayek, <i>Constitution of Liberty</i> , Part 3, chapters 18-20
Oct. 8	Hayek, <i>Constitution of Liberty</i> , Part 3, chapter 24, plus the Postscript
Oct. 13	Knight, <i>The Ethics of Competition</i> , chapter 2 (“The Ethics of Competition”)
Oct. 15	Knight, <i>The Ethics of Competition</i> , chapter 11 (“Economic Theory & Nationalism”)
<b>Oct. 19</b>	<b>Hayek Paper due before 11 pm. Deliver to D2L dropbox.</b>
Oct. 20	Rawls, <i>Theory of Justice</i> , Chapter 1, § 1-5, 8
Oct. 22	Rawls, <i>Theory of Justice</i> , Chapter 2, § 11-17
Oct. 27	Rawls, <i>Theory of Justice</i> , Chapter 3, § 20-25
Oct. 29	Rawls, <i>Theory of Justice</i> , Chapter 3, § 26-30
Nov. 3	Rawls, <i>Theory of Justice</i> , Chapter 4, § 31-39
Nov. 5	Rawls, <i>Theory of Justice</i> , Chapter 5, § 41-44; Chapter 7, § 60-67
Nov. 10	Rawls, <i>Theory of Justice</i> , Chapter 8, § 69, § 77; Chapter 9, § 78-79, § 82, § 86
Nov. 12	Tomasi, <i>Free Market Fairness</i> , ch. 4
Nov. 17	Tomasi, <i>Free Market Fairness</i> , ch. 5
Nov. 19	Tomasi, <i>Free Market Fairness</i> , ch. 6
<b>Nov. 23</b>	<b>Rawls Paper due before 11 pm. Deliver to D2L dropbox.</b>
Nov. 24	Tomasi, <i>Free Market Fairness</i> , ch. 7
Nov. 26	No Class – in lieu of group meetings with professor regarding final paper
Dec. 1	Tomasi, <i>Free Market Fairness</i> , ch. 8
Dec. 3	What have we learned? What Questions Remain?
<b>Dec. 12</b>	<b>Final Paper Due before 12 noon to Turnitin Dropbox in D2L</b>