LAW 6042: Constitutional Reform

Reform is an ever-present fact of American political history and life. From the Revolution to modern times, political arrangements and governing constitutional regimes have often found themselves in a state of flux. What were the circumstances giving rise to these changes? How did the historical backdrops govern, shape, and forecast those changes? In particular, how and why did jurists' understandings of "what the law means" contribute to their willingness to re-shape constitutional doctrine, and to what extent were they influenced by national events? All of these questions will be considered as students examine a set of historic reform movements that either evolved from specific constitutional change or were themselves the progenitors of radical change. The class will cover the following topics: expansion of the commerce clause and its contribution to the modern regulatory state: the criminal rights due process revolution; the intersection of equal protection and the expanded commerce clause in the context of the Civil Rights Movement; substantive due process from Lochner to Lawrence; the women's and gay rights movements; and finally, the evolution of the expanding franchise. Students will read the seminal cases of the reform period, historical accounts detailing the legislative initiatives preceding reform, and accounts explaining the need for reform. By the end of the semester, students should have a critical understanding of the close relationship between historical forces and constitutional change. Students will write a substantial research paper. Students will choose a topic early in the semester, and will work through at least one draft toward producing a final paper to be presented to the class. There presentations will occur at the end of the semester, and after students present, they will lead a class discussion on their topic. The final paper will account for the majority of a student's grade, though class participation will also play a discretionary role in grading.

Credits: 2.0