





# WWS 333/SOC 326: LAW, INSTITUTIONS, AND PUBLIC POLICY

PAUL STARR  
FALL 2025





## Syllabus

Where to find the readings:  = Canvas Assignments and Modules;  
 = Reserves;  = World Wide Web (hyperlink from syllabus);  
 = available for purchase at Labyrinth.

### **Week One. September 2. Introduction: public versus private ordering of institutions.**

*We begin with two examples, citizenship and contract, to illustrate the kinds of institutions the course will consider: (1) publicly ordered institutions and (2) privately ordered institutions within a legal framework.*

#### **Part One: Citizenship:**

-  Podcast: “Citizenship as an Institution” (Prof. Starr)
-  Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992), 21-34 (Ch. 1 “Citizenship as Social Closure”).
-  *Update:* Katrin Bennhold, [“Germany Has Been Unified for 30 Years. Its Identity Still Has Not.”](#) *New York Times*, November 9, 2019.
-  John Yoo and Robert Delahunty, [“The Originalist Case for Birthright Citizenship,”](#) *National Affairs* (Summer 2025), 15-28.

#### **Part Two: Contract:**

-  Margaret Jane Radin, *Boilerplate: The Fine Print, Vanishing Rights, and the Rule of Law* (Princeton NJ: Princeton University Press, 2013), xiii-xvii (Prologue) and 1-18 (Ch. 1). [Hypothesis assignment]

### **Week Two. September 9: Institutional analysis and law. What are institutions, and why do they matter for law and public policy?**

*This week—the most demanding week in the course—focuses on law’s distinguishing features as an institution and on general theoretical approaches to institutional analysis.*

#### **Part One: Law, rules, and rule of law**

◆ H.L.A. Hart, *The Concept of Law*, 3d ed. (New York: Oxford University Press, 2012), Ch. 5 (“Law as the Union of Primary and Secondary Rules”), 79-99. [Hypothesis assignment]

## **Part Two: Understanding institutions**

- ◆ Podcast: “Theoretical Perspectives on Institutions” (Prof. Starr)
- ◆ Douglass North, *Institutions, Institutional Change, and Economic Performance* (New York: Cambridge University Press, 1990), Chs. 1, 9.
- ◆ Paul J. DiMaggio and Walter Powell, “The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields,” *American Sociological Review* 48 (1983), 147-160.

## **Week Three. September 16. Foundational political institutions**

*In this week, we will examine the rise and consolidation of the modern nation-state as both a political and legal project and then turn to constitutions and the problem of constitutional stability and constitutional change.*

### **Part One: Nation-states and legal traditions**

- ◆ Podcast: “Nation-states as Political and Legal Projects” (Prof. Starr)
- ◆ Charles Tilly, “States and Nationalism in Europe 1492-1992,” *Theory and Society* (1994), 23: 131-146.
- ◆ John Henry Merryman and Rogelio Perez-Perdomo, *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*, 3rd ed. (Stanford, CA: Stanford University Press, 2007), 1-5, 20-33.

### **Part Two: Constitutionalism and constitutional change**

- ◆ Podcast: “Constitutional Entrenchment and Constitutional Change” (Prof. Starr).
- ◆ ◆ Linda Colley, *The Gun, the Ship, and the Pen: Warfare, Constitutions, and the Making of the Modern World* (New York: Liveright, 2023), 107-33.
- ◆ Christopher L. Eisgruber, *Constitutional Self-Government* (Cambridge, MA: Harvard University Press, 2001), 10-45 (Ch.1). [Hypothesis assignment]

## **Week Four. September 23. Rights and democracy**

*We now take up questions about the concept of rights and the institutional framework of democracy: What is a legal right? What role does law play in regulating democracy?*

## **Part One: What do you have when you have a right?**

- ◆ Podcast: “Law and Rights” (Prof. Starr)
- ◆ Stephen Holmes and Cass R. Sunstein, “All Rights Are Positive” and “The Necessity of Government Performance” in *The Cost of Rights: Why Liberty Depends on Taxes* (New York: W.W. Norton, 1999), 35-58. [Hypothesis assignment]
- ◆ Robert Cover, “The Origins of Judicial Activism in the Protection of Minorities,” *Yale Law Journal* 91 (1982), 1287-1316.

## **Part Two: Law and the design of democracy**

- ◆ Samuel Issacharoff, Pamela S. Karlan, and Richard H. Pildes, “An Introduction to the Design of Democratic Institutions,” in *The Law of Democracy: Legal Structure of the Political Process*, 6th ed. (New York: Foundation Press, 2022), 1-13.
- ◆ Paul Starr, “The Conservative Design of Liberal Democracy,” in *Entrenchment: Wealth, Power, and the Constitution of Democratic Societies* (New Haven: Yale University Press, 2019), Ch 4.

## **Week Five. September 30. Judicial institutions and unequal rights**

*We turn to the institutions that shape the legal process, focusing on courts, judges, juries and arbitration and their implications for inequality.*

- ◆ Marc Galanter, “Why the Haves Come Out Ahead: Speculations on the Limits of Legal Change” *Law and Society Review* 9 (1974), 95-160. [Hypothesis assignment]
- ◆ Podcast: “On Why the Haves Come Out Ahead” (Prof. Starr)
- ◆ Jeffrey Abramson, *We, the Jury: The Jury System and the Ideal of Democracy* (New York: Basic Books, 1994), Ch. 1.
- ★ Jessica Silver-Greenberg and Robert Gebeloff, [“Beware the Fine Print, Part I: Arbitration Everywhere, Stacking the Deck of Justice.”](#) *New York Times* Oct. 31, 2015; and Jessica Silver-Greenberg and Michael Corkery, [“The Fine Print, Part II: In Arbitration, a 'Privatization of the Justice System.’”](#) *New York Times* Nov. 1, 2015.
- ◆ Adam Winkler, *We, the Corporations* (New York: Liveright, 2018), Introduction, Ch. 10.

## **Week Six. October 7. Midterm debates on rights and equality**

*This week will be devoted to in-class debates about rights, the achievement of equality, and the role of the courts.*

**Debate 1. Roosevelt’s proposed Second Bill of Rights.**

**Debate 2. The courts and racial equality**

**Debate 3. The courts, rights to privacy, and gender equality: the case of reproductive rights**

General reading (representing the skeptical position on the court’s role):



Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* **Third edition** (University of Chicago Press, 2023), Introduction, Ch. 1.  
[Hypothesis assignment]

## **FALL BREAK**

### **Week Seven. October 21. Institutions and economic growth**

*This week, drawing on comparative and historical evidence, we consider how institutions, especially those created through politics and law, may affect economic growth, and how economic growth may affect institutions. The modern corporation is a particular focus.*



Podcast: “Thinking Institutionally about the Economy” (Prof. Starr)



Daron Acemoglu and James A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity and Poverty* (New York: Crown Business, 2012), Chs. 2-4, 7-10, 14-15.



Podcast: “Rise of the Modern Corporation” (Prof. Starr)



Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton NJ: Princeton University Press, 2019), Ch. 3 (“Cloning Legal Persons”).  
[Hypothesis assignment]

### **Week Eight. October 28: Property rights, public investment, and innovation**

*Continuing our discussion of institutions and economic growth, we turn to the problems of intellectual property and innovation. We consider how property rights can incentivize or deter innovation and take up a current case—AI and journalism.*



Podcast: “Property Rights—Three American Revolutions” (Prof. Starr)



Stuart Banner, *American Property: A History of How, Why, and What We Own* (Harvard University Press, 2011), 1-22, 94-108 (Introduction, Chs. 1 and 5).



Podcast: “Institutions and Innovation in America” (Prof. Starr)

★ Ross Andersen, “[How Scientific Empires End: And what it means for America](#),” *The Atlantic*, July 31, 2025.

◆ Michael Heller, *The Gridlock Economy* (Basic Books, 2008), Ch. 1 (“The Tragedy of the Anti-Commons”). [Hypothesis assignment]

### **Week Nine. November 4: Institutional change and inequality**

*Economic inequality has risen sharply since the early 1970s. What role have law and politics played in that process?*

#### **Part One: Labor's lost power**

◆ Podcast: “Institutional Change and Rising Inequality” (Prof. Starr)

◆ Jake Rosenfeld, *What Unions No Longer Do* (Harvard University Press, 2014), introduction, Ch. 1.

◆ David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* (Harvard University Press, 2014), 1-5, 28-42, 43-44, 76-92. [Hypothesis assignment]

#### **Part Two: Monopoly power, then and now**

◆ Podcast: Monopoly power and the online economy (Prof. Starr)

★ Lina M. Khan, “[The Ideological Roots of America’s Market Power Problem](#),” *Yale Law Journal Forum* (2018), 127: 960-79.

### **Week Ten. November 11. Federalism and electoral change**

◆ Jacob M. Grumbach, “From Backwaters to Major Policymakers: Policy Polarization in the States, 1970-2014.” *Perspectives on Politics* 2018;16(2):416-435. [Hypothesis assignment]



★ Updates: Aaron Zitner, “[America Is Fracturing Into Red and Blue Nations, Redistricting Fight Shows](#),” *Wall Street Journal*, August 9, 2025.

★ Adam Liptak, “[In Election Cases, Supreme Court Keeps Removing Guardrails](#),” *New York Times*, August 10, 2025.

[Brief readings to be assigned on ranked choice, proportional representation, and other electoral-system changes]

### **Week Eleven November 18. Oral presentations of term papers-in-progress**

### **Week Twelve. December 2. Law and the American Crisis**

  Paul Starr, *American Contradiction: Revolution and Revenge from the 1950s to Now* (Yale University Press, pub date: October 14, 2025), Ch. 10.

 Thomas Edsall, "[The Supreme Court Has Finally Found a President It Likes](#)," August 5, 2025.

**Final exam: December 18, 12:30-3:30.**

*[last modified, September 21, 2025]*