US Politics Today 2025

British Library
November 2025

Lecture content was written and delivered by Professor Philip Davies, Professor Andrew Moran, Dr Josephine Harmon and Dr Emma Long

This teaching resource was prepared and edited by Dr Adam Burns

Contents

1. US Politics Today and Congress to Campus

This year, the US Politics Today Conference was hosted on Monday 3 November and Friday 7 November by the Eccles Institute at the British Library. The event brought together four academic experts and two former members of the US Congress (FMCs). The academics discussed the latest research into US politics and the FMCs drew upon their experience of being immersed in the day-to-day realities of American political life. This year the academic speakers were:

Professor Philip Davies (pjd@dmu.ac.uk) – Davies has had a distinguished career in academia and is best known for his work on US election campaigns. He has written and edited numerous books, articles, and other publications including (with Robert McKeever) the successful textbook, *Politics USA* (3rd ed., Harlow: Longman, 2012). He was formerly the Director of the Eccles Centre for American Studies at the British Library and established the Philip and Rosamund Davies US Election Campaigns Archive at the University of Oxford.

Dr Josephine Harmon (j.harmon@qmul.ac.uk) – Harmon is an Assistant Professor in Political Science at Northeastern University (London) and a Research Fellow at Queen Mary University of London. She is a political scientist specialising in US politics and political behaviour. Her work has appeared in *Sociology Lens*, *Critical Studies-Critical Methodologies* and *The Washington Post*. You can find out more via her online presence at: josephineharmon.wordpress.com @Josephine_HAR

Dr Emma Long (Emma.Long@uea.ac.uk) – Long is an Associate Professor in American History and Politics at the University of East Anglia (UEA), where she has worked since 2013. Her main research interests are the US Constitution and the US Supreme Court. She is the author of a number of journal articles, book chapters, and the monograph *The Church-State Debate: Religion, Education and the Establishment Clause in Post War America* (London: Continuum, 2012). She is currently finishing work on *Lobbying for the Lord: The National Association of Evangelicals and the Growth of Post-War Evangelical Political Activism*.

Professor Andrew Moran (a.moran@londonmet.ac.uk) – Moran is the Head of Criminology, Sociology, Politics and International Relations at London Metropolitan University. He has written for several leading journals, including: *Presidential Studies Quarterly*, *White House Studies*, *Diplomacy and Statecraft*, *Political Studies* and *Party Politics*. He also co-authored the popular book, *International Security Studies: Theory and Practice* (London: Routledge, 2026), the third edition of which was released this year.

Each academic gave a short lecture and edited versions of the slides or scripts provided by the authors are included here. Each set of lecture notes is then followed by an edited summary of some of the responses given by the two former members of Congress from the Friday 7 November event.

2. The British Association for American Studies

Founded in 1955, the British Association for American Studies is the leading voice for the promotion, support and encouragement of the study of the United States in the UK. The association has a wide membership and encourages anybody engaged or connected with the study of the United States to get involved. You can find out more on their website at: https://baas.ac.uk/

In addition to their regular conferences, *The Journal of American Studies* (Cambridge University Press), and their book series, Critical Insights in American Studies (Edinburgh University Press), they also have a number of ways for secondary school and college teachers and lecturers to engage, as well as Sixth Form (Year 12 & 13) students.

Ways for schools to get involved:

- **Schools Newsletter** (twice a year) – for everyone – teachers please do contribute, if you are interested!
- **Schools Conference** (annual) – for students and teachers
- **Essay competitions for Sixth Form students** (annual) – two essay awards
- **Barringer/Monticello Teacher Award** (annual) – for teachers
- **Resources** – mini-lectures, A-level focused resources, more information about American Studies (alumni profiles)

BAAS BRITISH ASSOCIATION FOR AMERICAN STUDIES

Promoting, supporting and encouraging the study of the United States since 1955

For more information, please contact:

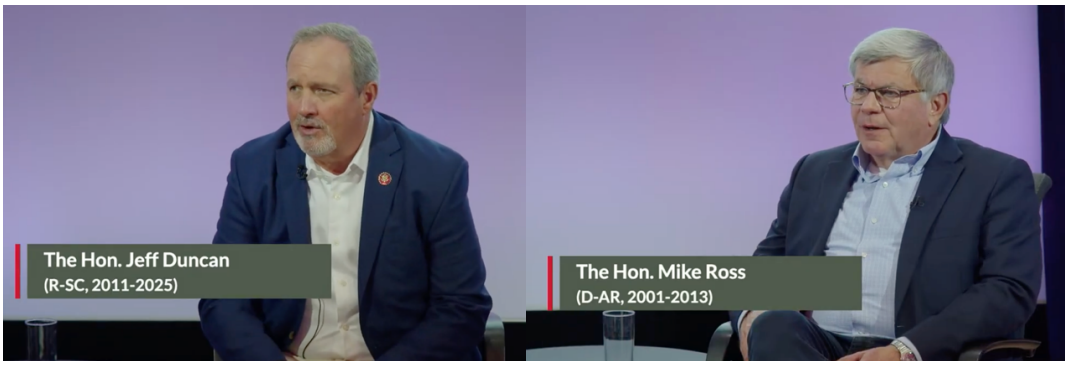
Dr Adam Burns (adam.burns@baas.ac.uk) – Burns is Head of Politics at Brighton College and has taught US history and politics at a number of schools and universities across the UK. He is the author *of American Imperialism: The Territorial Expansion of the United States, 1783-2013* (Edinburgh: Edinburgh University Press, 2017); *The United States, 1865-1920: Reuniting a Nation* (London: Routledge, 2020), and *William Howard Taft and the Philippines: A Blueprint for Empire* (Knoxville: University of Tennessee Press, 2020), and co-editor of *Sports and the American Presidency* and *American Imperialism in the Long Nineteenth Century: A Documentary History, 1776-1919* (Vol. III). For more, see: https://adb.webador.co.uk/

3. Introduction to the Former Members of Congress (FMCs)

The 2025 US Politics Today Conference on Friday 7 November, began with a warm welcome from Dr Philip Abraham, Lead Curator in the Eccles Institute for the Americas and Oceania at the British Library. This was followed by opening introductions from the visiting Former Members of Congress (FMCs) – Jeff Duncan and Mike Ross. From the outset, Duncan and Ross outlined their personal histories as well as their extensive experience in Congress.

Jeff Duncan (Republican)
Former US Representative from South Carolina's 3rd District (2011–2025)

Duncan began by introducing his background in Congress: 14 years as a US Representative for South Carolina's 3rd District, having served on committees including: Homeland Security, Natural Resources, Foreign Affairs, and later the powerful Energy and Commerce Committee. Prior to his role in the US Congress, Duncan was a member of the South Carolina state legislature, where he chaired environmental affairs. He later led the Natural Resources and Environmental Affairs Committee in the US Congress, underscoring the expertise he brought to this area, having spent many years studying and debating it.



Mike Ross (Democrat)
Former US Representative from Arkansas' 4th District (2001–2013)

Ross discussed his early career supporting a young Bill Clinton when he was running for election as Governor of Arkansas, after initial disappointment in 1980: "I cut my teeth on the politics of Arkansas at the age of 20… running around Arkansas meeting people and asking them to give him a second chance". He then outlined the next steps in his career: ten years in the Arkansas State Senate, followed by 12 as US Representative for Arkansas' 4th District. He also served on numerous committees and sub-committees in the House, including Foreign Affairs, as well as the Energy and Commerce Committee (like Duncan).

Through these introductions, Ross and Duncan established themselves as experienced veterans of the US Congress, with some significant overlapping expertise and a shared (if still distinctive) southern heritage.

4. Lecture 1: Professor Philip Davies

The Party Balance in Washington

https://youtu.be/78OKrUSOy_s

Initially the 2024 election was not a two-horse race, especially with a crowded field jostling for the Republican nomination… except it seemed to really be a race between Trump and Biden. When Biden exited and Harris entered, things became more confusing. On 5 November 2024, the voting shifts were quite small but they were all in one direction. In around 90% of counties in the USA, Trump performed better against Harris than he had four years previously against Biden.[1]

[1] Bloch et al. "Election Results Show a Red Shift Across the US in 2024," *New York Times*, 17 December 2024. Available at: https://www.nytimes.com/interactive/2024/11/06/us/politics/presidential-election-2024-red-shift.html

4.1 For comparison: Presidential Elections, 2024, 2020 & 2016

	Democrat	**Republican**
2024	Kamala Harris	Donald Trump
Electoral College	226	312
Popular vote	**75 million (48.3%)**	**77.3 million (49.8%)**
2020	Joe Biden	Donald Trump
Electoral College	306	232
Popular vote	**81.3 million (51.3%)**	**74.2 million (46.8%)**
2016	Hillary Clinton	Donald Trump
Electoral College	227	304 7 Other[2]
Popular vote	**65.9 million (48.2%)**	**63 million (46.1%)**
		(% of the total vote cast)

4.2 US Senate Elections (Class 1 + any special elections)

	Democrat	**Republican**
2024	**19** (inc. 2 Ind)	15
2018	**24** (inc. 2 Ind)	11
2012	**25**	8

Senate total after 2024 results (100 seats, 51 needed for a majority)

47 (includes 2 Independents)	**53**

4.3 US House Elections (435 seats: 218 needed for a majority)

	Democrat	**Republican**
2024	215	**220**
2022	213	**222**
2020	**222**	213

[2] The seven 'other' electoral college votes are accounted for by 'faithless voting' from Hawaii, Texas and Washington. See https://www.archives.gov/electoral-college/2016 for more information.

4.4 The Trump Achievement in 2024

A Republican public vote victory in the presidential election

- Last achieved in 2004
- And before that in 1988

A Republican federal government trifecta (simultaneous control of the presidency and both chambers of US Congress)

- Last achieved from 2017 to 2019
- And before that from 2001 to 2007
- And before that from 1953 to 1955

Arriving in Washington primed and ready to take action

- The Trump team rapidly deployed a loyal leadership team
- Made swift and ruthless dismissals
- Issued Executive Orders at a rate not seen since the end of World War II

The Trifecta: The Holy Grail for US Political Party Leaders
Can this be maintained in the 21st Century?

	1896-1930	**1932-1996**	**1968-present**
Trifectas	83%	78%	28.6%
Divided Control	17%	22%	71.4%

Issues wax and wane in significance, energise different electorates, and sometimes drive long-term voting shifts. In 2024, Pew polling suggested the economy was the top issue for voters.[3]

In recent years, US public support for the two major US political parties has been very close.

[3] "Issues and the 2024 election," Pew Research Center, 9 September 2024. Available at: https://www.pewresearch.org/politics/2024/09/09/issues-and-the-2024-election/

The Aggregate Popular Vote in Elections Since 2020
(with % share of the two-party vote)

	Democrat	**Republican**
Presidential elections (2022, 2024**)**	**156.3 million** (50.8%)	**151.5 million** (49.2%)
Senate elections* (2020, 2022, 2024**)**	**136.1 million** (50.6%)	**133.0 million** (49.4%)
House elections (2020, 2022, 2024**)**	**201.1 million** (50.3%)	**199.0 million** (49.7%)

*The votes for 2 Independents who caucus with the Democrats are included in the Democrat total. No Senate special election results are included in the totals.

4.5 Polarisation

US Political Parties Have Always Debated Hotly Any Major Issues of Difference

For most of the past century polarisation has been mitigated:

- In government by co-operation and compromise across much of the political agenda
- In the electorate by a range of opinions shared by Liberal Republicans and Conservative Democrats

In recent years the political parties have become more rigidly separate:

- Issues of difference have increasingly dominated political debate
- The political parties have become more ideologically coherent
- The media has become more politically balkanised

When electoral opinion is very deeply divided, but the numbers are even, the search for leverage intensifies:

1. **Campaign spending**

2024 $24.8 billion
2020 $18.3 billion
2000 $5.6 billion

(Source: Open Secrets)

2. **The Gerrymander**

e.g. WI, OH, NC, TX, CA

The gerrymander is implemented by state governments. Republicans have very effectively increased their political presence at state level in recent years

State Government: The Drift Away from Split Party Control

The average number each year of states with party Trifectas or with Split Party Control

	Democrat	Republican	Split Control
1977-1984	**21**	**5**	**24**
1985-1994	**16**	**4**	**30**
1995-2011	**10**	**12**	**28**
2011-2025	**12**	**23**	**15**

4.6 State level government, 2025
(NJ and hold Gubernatorial elections on 4 Nov 2025)

Total number of governorships held by each party

2025	**23**	**27**	

Trifectas at state level

2025	**15**	**23**	**12**

4.7 Looking to the 2026 Midterms

The Latest Poll figures (%)
(Source: Real Clear Polling, 19 September 2025)

Trump Approval/Disapproval	**46.1 / 52.7**	**(-6.6)** (on Election Day 2024 -7.0)
Country on Right/Wrong Track	**37.4 / 56.3**	**(-18.9)**
Congressional Voting Intentions D/R	**44.3 / 41.3**	**(D +3)**

Pundit predictions one year out!
(Source 270toWin, 19 September 2025)

US Senate	**Republicans**	**Potential for up to +3 seats**
US House	**Republicans**	**212 safe-relatively safe seats**
	Democrats	**202 safe-relatively safe seats**
	Too Close to Call	**21 seats**

Governorships	**Republicans**	**25 safe-relatively safe states**
	Democrats	**20 safe-relatively safe states**
	Too Close to Call	**5 states**

4.8 FMCs' responses to Professor Davies's Lecture

Campaign Spending and Third Parties

Duncan (Rep.) noted the scale of money in US election campaigns: from "single-digit billions" to around "$28 billion". He described it as "alarming" and stated that the domination of the Republicans and Democrats in raising this money makes it difficult for third parties to emerge. However, he suggested that rare figures such as Elon Musk, who has spoken about the need for a third party, would have the capacity to finance a challenge to the two-party system and could be a "game changer" in this regard.

Trifectas and Gridlock

Duncan highlighted the tension between a party securing a seemingly powerful trifecta (control of the House, Senate, and Presidency) and the narrow margins the Republicans currently have in Congress. He noted that these tight margins give those on the extreme of the party, such as Marjorie Taylor Greene and Lauren Boebert in the House or Rand Paul in the Senate, the power to make things very difficult for the leaders of their own party. Indeed, he continued, this is particularly true of the Senate, where procedural rules like the 60-vote threshold for cloture make passage of some important legislation extremely tricky. As this talk took place in the midst of the longest shutdown in US government history, Duncan felt these issues were particularly clear at the time.

Electoral College vs. Popular Vote

Duncan defended the Electoral College, arguing it protects small states from being ignored. He supported this theory with an example of a statewide race in South Carolina for the Commissioner of Agriculture, which is based purely on a popular vote. The candidate in question concentrated campaign efforts in large urban areas (Columbia, Greenville, Charleston), whilst broadly ignoring rural farmers – the very people the role is designed to serve – because the cities were where the votes were. He argued that, if presidential elections were purely based on the popular vote, candidates would likely only campaign in states dominated by large urban centres (like California and New York) and overlook states like South Carolina and Arkansas – for Duncan, "the Electoral College makes it fair".

Ross (Dem.), in stark contrast, felt that this "funky Electoral College business" distorts the democratic principle that "whoever gets the most votes wins". In evidence, he looked to Trump's Electoral College victory in 2016, despite losing the popular vote to Hilary Clinton. He argued that the system means candidates only focus on half a dozen or so "swing states," meaning the vast majority of Americans get excluded from the

process entirely. He suggested that it is time to reconsider the wisdom of the Electoral College but conceded that, with the present gridlock in Congress, this will not be a priority any time soon.

Gerrymandering and Safe Seats

Ross argued strongly that congressional dysfunction was significantly impacted by gerrymandering. Despite the midterms being over a year away at the time of the conference, Ross stated: "I can sit here right now and tell you how 414 of those congressional districts will go. I can tell you which ones are going to be red [Republican], no matter who the candidate is, and which ones are going to be blue [Democratic], no matter who the candidate is". This is because, he suggested, both parties have taken a partisan approach to redistricting that amounts to gerrymandering – creating safe districts (safe seats) – and this has only worsened in recent years (see the current situations in Texas and California). To overcome this, he suggested the introduction of independent, non-partisan redistricting commissions that considered the geographic and economic coherence of districts.

Duncan did not disagree but added that an additional factor to consider was that of civil rights. He noted that pre-clearance rules (requiring the Department of Justice to review proposed new electoral boundaries on state maps) dating back to the 1960s still force some states (like South Carolina) to be mindful of gerrymandering on the basis of race in a manner that might be seen as an effort at disenfranchisement. But, he concluded, he broadly agreed with the suggestions for reform outlined by Ross.

2028 and Beyond

In response to a question on who the next Democratic presidential candidate might be, Ross said it was "too early to know" but several names to watch include: Gavin Newsom (Governor of California), Josh Shapiro (Governor of Pennsylvania), Andy Beshear (Governor of Kentucky), J. B. Pritzker (Governor of Illinois), and even Alexandria Ocasio-Cortez (US Representative for New York's 14th District).

5. Lecture 2: Professor Andrew Moran

The Imperilled or Unconstrained Presidency

https://youtu.be/kR8TVeCvtU0

5.1 The History and Theory of the Presidency

The Constitution of the United States, although based on the separation of powers and checks and balances, originally gave pre-eminence to the legislature. Today, however, the executive holds centre stage.

There have been 47 presidents. Some exercised great power or influence and are remembered accordingly - Jefferson, Jackson, Lincoln, Theodore Roosevelt, Franklin D. Roosevelt, Lyndon Johnson, and Reagan - whilst others have been forgotten - Polk, Taylor, Fillmore, Garfield, and Taft. The election of Franklin D. Roosevelt and his New Deal programs saw the birth of the modern presidency, and the beginning of an unbroken line of men who believed the office, if necessary, should be expanded. Simultaneously, events produced demands from the public and other parts of the political system which virtually forced the presidency to expand, including:

1. The increased involvement in world politics by the United States following their entry into the Second World War in 1941, and then the Cold War;
2. The involvement of the federal government in the nation's economic and social life, which effectively began with FDR and the New Deal;
3. The resulting growth in the size and power of the executive;

4. Changes in technology, media and society which have seen the public identify the president as the head of the political system (few can identify all of their members of Congress, or judges, or state and local executives);
5. The style of campaigning since the 1930s has weeded out passive candidates – most candidates have had strong personalities, orientated toward an expanding presidency.

There are many differing interpretations of presidential power. Perhaps the most well-known was proposed by Richard Neustadt in his book *Presidential Power*, published in 1960, in which he argued that the central skill of a president was the power of persuasion - exercised by effective bargaining, maintaining their reputations with other policy makers as skilled and popular leaders, and seeking to arrange that other policy makers find it in their own interest to do what the president wants them to do.

In 1966, Aaron Wildavsky, argued there were *Two Presidencies,* one dealing with foreign policy and the other with domestic policy. Presidential leadership in foreign policy would, he suggested, find greater support among the public than domestic policy, and Congressional approval would also be greater for foreign policy rather than domestic. Though there are constraints on a president in political terms, e.g. separation of powers, a president can circumvent these by using Declaratory Commitments, Executive Orders, Executive Agreements, and informal powers. As General Jack Keane advised President-Elect Donald Trump in 2016, "The world's problems have a way of coming to 1600 Pennsylvania Avenue whether you want them or not" (Quoted in Bob Woodward's *Fear: Trump in the White House*, 2018).

But perhaps the most influential interpretation, along with Neustadt's, was *The Imperial Presidency* by Arthur Schlesinger Jr., published in 1973. He argued that the presidency had, through a gradual enhancement of power, grown too powerful and had assumed more authority than was justified by its constitutionally granted powers. Much of the expansion of presidential power had involved seizing power from Congress. Schlesinger noted Congress had delegated many of its powers to the president but no president in the 20th century had delegated any power to Congress.

The height of the Imperial Presidency was seen under Johnson and Nixon, highlighted by the war in Vietnam and the Watergate crisis. For many, Watergate represented the near destruction of constitutional government in the United States, only paralleled since by the arms-for-hostages scandal of the Reagan Administration, known as Irangate, and events during the first Trump presidency. These cases highlighted the need for checks against the abuses made possible by the development of the Imperial Presidency. "*The problem,"* wrote Schlesinger, "*is to devise means of reconciling a strong and purposeful presidency with equally strong and purposeful forms of democratic control. Or, to put it succinctly, we need a strong presidency - but a strong presidency within the Constitution*". After all, the public turned against Vietnam, and Nixon was brought to account, becoming the first president to resign before being impeached by the House. In short, if Congress can find the political determination to control the presidency, it may be able to do so.

This was a factor highlighted by the difficult post-Nixon presidencies of Ford and Carter. Ford, himself, complained that the presidency had become 'imperilled' as Congress sought to reassert itself after Nixon, combined with a bureaucracy that was too vast to effectively carry out the wishes of the president. Ford argued he was forced to use the presidential veto 66 times in two years because of congressional actions and complained that Congress had tied his hands in Vietnam, leading to the US's ignominious withdrawal in 1975. Since then, we have seen an ebb and flow of power between the Presidency and Congress, e.g. George W. Bush was believed by some to have been 'imperial' during the War on Terror. And then there is Donald Trump.

5.2 Donald Trump (45) – The Unconstrained Presidency?

Trump was the first Commander-in-Chief never to have served in government or the military. He was opposed by the Republican establishment during the campaign in 2016, e.g. more than 120 former Republican foreign policy and national security officials and experts signed a 'Never Trump' letter.

He made a series of unilateral decisions with enormous consequences, e.g. withdrawing from the Iran nuclear deal, the Trans-Pacific Partnership, the Paris agreement on climate change, and the Intermediate-Range Nuclear Forces Treaty; put 'America First' in any trade deals; placed a travel ban on a number of countries with a majority Muslim population; and moved the US Embassy in Israel to Jerusalem. He threatened nuclear war against North Korea, dropped the 'mother of all bombs' on Afghanistan, bombed Syria twice, and threatened to 'obliterate' Turkey.
He imposed tariffs on China, the EU, Canada and Mexico (having renegotiated NAFTA with the last two). In June 2018, he withdrew the US from the G7's joint communique, insulting Canada's President Justin Trudeau in the process, and raised concerns about the US commitment to NATO (which he once called 'obsolete'). He seemed more at ease in criticising America's institutions and allies whilst praising Putin, Xi, Duterte, and even 'fell in love' with Kim Jong-Un.

Critics claimed Congress was failing to act and that the bureaucracy was being sidelined, whilst allies appeared impotent or ignored. Such were Trump's actions that James Goldgeier and Elizabeth Sanders labelled his presidency not 'imperial', but 'unconstrained' (*Foreign Affairs*, Sept/Oct 2018). In reality, the checks on presidential power in foreign policy have been eroding for some years, e.g. the War Powers Act of 1973 is not fit for purpose.

In Congress there has been a reduction in foreign policy scrutiny and expertise (e.g. since the 1990s the Senate Foreign Relations Committee and the Senate Armed Services Committee have held fewer hearings) and increased polarisation which has made it difficult for legislators to oversee and check the actions of the president, or there has been gridlock. This is one of the reasons presidents may use alternatives, e.g. Executive Orders and Executive Agreements (e.g. Obama's Iran deal). Since 9/11, when Congress passed the Authorization for the Use of Military Force, the president has effectively been given a free hand in expanding military operations under the guise of counter-terrorism activities.

On trade, Congress tends no longer to act, even despite its misgivings over Trump's protectionist agenda. One noted disagreement came in 2017 when Congress imposed additional sanctions on Russia against Trump's wishes. Under Trump, the expertise of the State Department was gutted, with estimates of 60% of its career ambassadors being lost in the first year of his presidency alone. Simultaneously, he increased the military budget.

Trump relied more on close advisors, e.g. Mike Pompeo (State) and Jared Kushner. He used the 'bully pulpit' and by-passed the media through tools such as *Twitter*. But can you make foreign policy in 280 characters? Arguably he further undermined the role the media carries out in holding politicians to account by branding anything he did not like as 'fake news'. Or he simply made it up, notably the lie of the 'stolen election' which led to the storming of Congress on 6 January 2021.

A significant legacy of his first term was his appointments to the judiciary. Trump was able to appoint three Supreme Court judges and 54 appellate judges (30%). The average age of an appellate judge was 47 years (five years younger than those chosen by Obama), the vast majority of whom were white males. They will likely shape American jurisprudence for years to come, carrying forward, Trump hopes, the conservative and Christian values of his base for which he will be electorally rewarded, e.g. *Roe v Wade* (1973) was overturned by *Dobbs v. Jackson Women's Health Organization* (2022).

Remember, Trump failed to win re-election in 2020, becoming the first president to lose the popular vote twice, the first president since George W. Bush Sr. not to win a second consecutive term, only the third to be impeached (surviving removal from office thanks to the Republican-controlled Senate), and the only one to be impeached twice. But in 2020, 71 million Americans voted to 'Make America Great Again', and there were around 300 Republican candidates running for office in 2022 who believed the election was stolen, along with 68% of Republican voters. It was not stolen.

5.3 Joe Biden - The Presidency in an Era of Dysfunctional Government?

Joe Biden tried to restore a more 'normal, gentler' presidency, but he faced many challenges, not least a divided and polarised nation, a pandemic, and gridlock in Congress.

Domestically, his achievements were significant: The $1.2 trillion bipartisan infrastructure bill; $1.9 trillion COVID relief deal; the highest appointment of federal judges since Ronald Reagan in his first year of office (80 percent of whom were women and 53 percent were people of colour); rejoining the Paris Accords, and pushing through the Inflation Reduction Act, targeting climate change, inflation and the deficit. Biden embarked on an era of public spending which some compared to the New Deal era, accelerating a green transition and creating jobs. The unemployment rate fell to 4.1% in October 2024, matching pre-pandemic levels, and the inflation rate was 2.6%, down from over 8% at the height of the pandemic (which was the worst level for 40 years). But, in a polarised political and media age many Americans just didn't see the economy

doing well. The divisions within the Democratic Party were damaging as he struggled to unite the progressive and more conservative wings at the beginning, and then, more dramatically, at the end when, in an unprecedented event, he was forced to step down as the party's candidate.

Biden sought to restore America's traditional alliances and American credibility on the world stage. The chaotic retreat from Afghanistan hindered the early days of his foreign policy but his handling of the war in Ukraine enabled him to pursue his agenda of bolstering democracy at home and opposing authoritarian pressures across the world, stressing his recommitment to NATO. But this was made more difficult as a result of the ground that has been lost to America's competitors in recent years, not least China, Russia and India (and, remember, North Korea is still a nuclear weapon state). His pivot towards the Indo-Pacific region, and AUKUS, undermined US relations with Europe, and was met with a frosty response from China (as were his statements on Taiwan). But US support for the war in Ukraine helped stabilise relations with Europe. His commitment to Israel in response to the attacks by Hamas on 7 October 2023, however, led to claims of US hypocrisy and damaged Harris's election campaign.

Biden struggled with his poll ratings throughout his term. After six months in office, they remained stubbornly in the 40%s. Only Carter polled more negatively. His disastrous performance in the presidential debate ended a distinguished career of public service.

Kamala Harris was the first woman, first Black person, and first person of South Asian descent to become the Vice President of the US and then presidential candidate. After Biden stepped down, the initial bump she experienced dissipated and she struggled to build a narrative that separated her from the Administration and failed to reach out to a broader coalition of voters.

5.4 Donald Trump (47) – The Aggrieved Presidency

In an astonishing comeback, Trump won both the Electoral College and the popular vote. He won despite having 34 convictions, 91 indictments, and two impeachments. The Republicans also won both the Senate and the House. The Supreme Court is dominated by conservatives and Trump may get the chance to appoint more.

Trump assumed office knowing that he is protected by presidential immunity thanks to *Trump v. United States* (2024). Trump stated in February 2025 on *Truth Social*, "He who saves his Country does not violate any Law" (attributed to Napoleon). From the beginning the Trump administration has sought to pursue what some call the 'unitary executive', which states that the president has sole control over the executive branch, including allowing the president to remove executive branch officials as he sees fit. According to Vice-President J.D. Vance on *X*, "Judges aren't allowed to control the executive's legitimate power".

Trump has also sought to exploit both the elasticity of the Constitution and to use the ideological majorities that exist in the legislature and judiciary. Through his use of executive orders and emergency declarations, he has launched a whirlwind of actions

designed to ‘flood the zone’, attacking established democratic norms and institutions, including the media, universities, law firms, politicians, cultural centres, the Federal Reserve, and judges, along with retribution against perceived enemies, e.g. James Comey, John Bolton, Letitia James and others. The Administration pardoned nearly 1,600 citizens arrested in connection with the 6 January 2021 Capitol riot, including members of far-right groups. He has also issued a number of equally controversial pardons, e.g. George Santos and Changpeng Zhao.

He has cut back the size of the bureaucracy, initially led by Elon Musk and Department of Government Efficiency (DOGE), whilst also expanding the number of political appointments to the civil service. The administration has ended Diversity, Equity, and Inclusion (DEI) programs within the federal government and military, aiming to institute a merit-based system instead. Minorities are being removed from America’s history, e.g. Arlington National Cemetery scrubbed from its website all mentions of the history of Black and female service members, whilst the *Enola Gay* was initially flagged for removal from Pentagon documents due to the word ‘gay’. Trump has even complained the Smithsonian focuses too much on ‘how bad slavery was’.

He declared a national emergency on the Southern border, where he has recommitted to building the wall, and pledged to deport up to 15 million immigrants, controversially using ICE members who have targeted undocumented migrants across the US. He has sent the National Guard into Democrat-controlled cities, claiming they are rife with crime and violence (often in contradiction to statistics), and suggested to military leaders that troops should practice on the ‘enemy within’.

Arguably the biggest success is the passage of the tax cuts with the *Big Beautiful Bill*, which remains controversial and has partly contributed to a government shutdown.

In terms of foreign policy, he promised to end the wars in Gaza and Ukraine on his first day in office. This has not happened. He has continued his close association with Israel, and personal relationship with its leader, Bejamin Netanyahu, whilst claiming in mid-October that he had brought an end to the war in the region that was 3,000 years old. It is too early to tell if the ceasefire will hold. His 20-point plan has many trap doors that the peace process could fall through. It is important it succeeds, not least in terms of maintaining peace and the progress Trump achieved in the Middle East in his first term with the Abraham Accords, which sought to normalise relations between a number of Arab states and Israel.

Trump lobbied for the Nobel Peace Prize, claiming he had ended eight wars – highly questionable, and a Nobel Peace Prize for ending the war in Gaza would have to include other regional actors, e.g. Qatar, Turkey, Egypt. It is unclear whether the bombing of Iran will prevent their nuclear ambitions progressing.

He has flip-flopped continually over the war in Ukraine, both pledging support for Ukraine and walking away. The Alaska Summit achieved nothing and a proposed Budapest Summit seems a long way off. Whilst committing to NATO, his inconsistent approaches have also undermined it and many in Europe now wonder if they can rely on

the US in the future and whether Trump would fulfil America's commitments under Article 5 of the NATO treaty.

Tariffs and trade wars, as much as sanctions, are now a central part of US foreign policy armoury, as Trump applies or threatens hiked tariffs on competitors and allies. But this has damaged relationships with allies and pushed others towards developing partnerships with China and India.

He has also backed down, leading to accusations of weakness, of being the "TACO" president ("Trump Always Chickens Out") and causing damage to the US economy, e.g. pressure from bond markets and inflation. China appears emboldened by what many perceive as America walking away from global norms, creating a vacuum they have sought to exploit. The America-First approach has substantially damaged US soft power around the world, e.g. the withdrawal of foreign aid, the sanctioning of members of the International Criminal Court, the order to withdraw from the Paris Accords on climate change (for a second time), and the extra-judicial killings of drug gang members whom the Administration has branded as foreign terrorist organisations.

5.5 Summary

The Administration's actions, particularly those based on executive orders and emergency declarations, have been an unprecedented display of unilateral power exercised by a modern American president. Though not challenged by Republicans in Congress, they are facing numerous legal challenges.

His efforts to dismantle large parts of the federal government could take years for subsequent presidents to restore - if they choose to. Although, it could also be argued that his sweeping reforms could be wiped away by a future president, as many are centred on Executive Orders and emergency declarations which can be overturned. So how much of what Trump does in terms of lasting change remains an open question.

Many believe that the future of American democracy, the institution of the presidency, and the role that America will play in world affairs are being stress-tested like never before. What that means for citizens in the US, and America's relationship with the outside world, in the long term remains to be seen. Keep your seatbelts fastened because it will continue to be a very bumpy ride.

5.6 FMCs' responses to Professor Moran's Lecture

No Kings Protests and Executive Overreach

When asked about protests accusing Donald Trump of acting like a king, Duncan (Rep.) suggested that they represented a "small section" of the population (even if the crowds themselves were often large), inflated by media spin. He also speculated that some people travelled from protest to protest and were even paid to attend, further inflating numbers. He argued that Trump is not alone among recent presidents in having acted

forcefully to try and realise his agenda, but that Congress and the Supreme Court do need to carry out their 'checking' functions more effectively.

Ross (Dem.) began by affirming the importance of the First Amendment, defending Americans' rights to "peacefully protest". He felt that the actions of President Trump had provoked a response and that Americans have every right to register their discontent. Duncan then compared the No Kings Protests to earlier protests from the right by the Tea Party Movement – noting that this is not an anomaly under the Trump presidency.

Trump, the 2026 Midterms, and the Courts

In answer to a question as to whether Trump would be 'unconstrained' after 2026, Ross responded "I think Trump is Trump and I don't think anything is going to restrain him other than him completing his term, which is more than three long years away". That said, Ross predicted a Democrat victory in the House in next year's midterms, offering a potential check on his power.

Duncan said he thought the Supreme Court would move to challenge some of Trump's unilateral actions, particularly his tariffs, noting that even Justice Coney Barrett raised doubts about a president's power to unilaterally impose trade restrictions without Congress. In this sense, offering another route through which Trump's executive powers might be more fulsomely challenged in the coming months.

Economic Policy & Social Programs

One student asked whether Trump had lived up to his promises regarding the economy, especially when it comes to working-class Americans, given recent cuts to the Supplemental Nutrition Assistance Program (SNAP). Duncan responded by clarifying that Congress (and the shutdown), not the president, was responsible for cuts to SNAP benefits. He also noted that inflation and transportation costs are down (compared to under Biden), and campaign promises have largely been met. He speculated that the ill effects of tariffs might level out over time.

Ross noted that polls suggested increasing public concern about the economy. He said that, with the Republican trifecta, the Republicans are in charge and they need to work on compromising to get a budget passed.

Peace in the Middle East

One student asked whether Trump is creating rather than solving problems in the Middle East. Ross noted the complexity of the Israel-Gaza situation but concluded that Israel had gone "too far" and that too many lives had been lost. He supported the concept of a two-state solution – aiming most blame for continued conflict at those who do not want to find a solution.

Duncan, more directly, supported Trump's diplomatic efforts, agreeing that perhaps Israel had gone "too far" in responding to Hamas attacks. He also praised Netanyahu and Trump's earlier efforts to move towards regional peace, with the Abraham Accords of 2020.

Democratic Fightback?

The final question in this segment focused on Democratic election victories in November 2024, notably the victory of Zohran Mamdani in the New York mayoral election.

Duncan said that they were very predictable, with perhaps the New Jersey gubernatorial election being more clear-cut than he expected. He thinks the 2028 election will be based on Trump's record at that point, and Democrats are winning at the moment in places where they are traditionally strong.

Ross felt it was a "big night for Democrats," particularly the gubernatorial win in Virginia. He felt that results have put Newsom in the driving seat to become the presidential nominee in 2028. Mamdani, he notes, offers a brand of socialism that Americans often confuse with Communism and that the Democrats need to distance themselves from Mamdani if they want to win in 2028. That said, he added, young people were energised by Mamdani's campaign, and the wider (more moderate) Democratic Party must take this into consideration.

Trump 2028? [question from the next talk but clearly about the presidency]

Duncan argued that Trump has spoken about a third term simply for effect but does not mean it. The US Constitution is clear, he argued, he cannot run for a third term and it's only the media that is trying to keep this story running. Ross said – "I think [Trump] runs his mouth a lot" – agreeing with Duncan that Trump's talk of a third term is unrealistic and not intended to be taken seriously. Ross also noted that Trump will be too old, in the eyes of some, to run again.

6. Lecture 3: Dr Josephine Harmon

The United States Congress: Power Sharing & the State of Article 1 Today

https://youtu.be/4ldy4lLRsy8

6.1: US political system, comparatively and single case

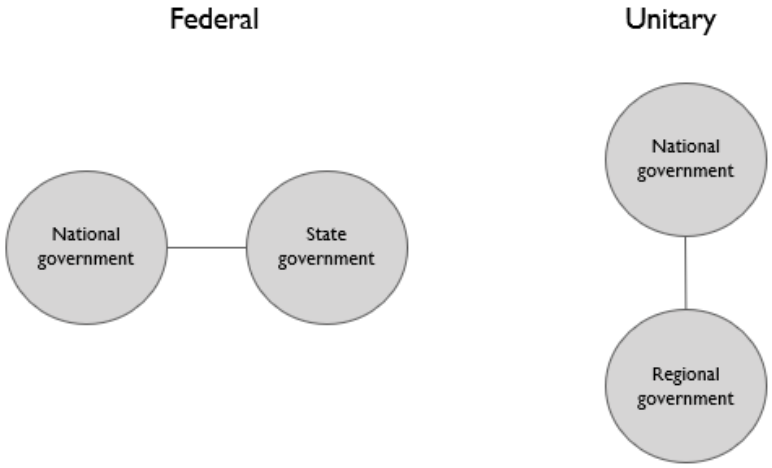
Federalism v Unitary Systems

United States (US)

- Federal system of government
- Shared sovereignty between federal government and individual state (Congress is not sovereign like the UK Parliament)
- 50 states and 1 district (Washington, DC)
- Laws and political cultures vary state to state

United Kingdom (UK)

- Unitary, centralised system with sovereignty emanating from UK Parliament
- Parliamentary sovereignty, even in devolved system of UK
- Devolved assemblies: Scottish Parliament, Northern Irish Assembly, Senedd (Welsh Parliament)



Structure of the US Congress

- Bicameral ('two chambers') legislature
- Comprised of US Senate and US House of Representatives
    - Upper house: Senate (originally selected by state legislatures; established interests)
    - Lower house: House of Representatives (Founding Fathers: closer to people; *vox populi*)
- 100 Senators (2 per state)
    - 6-year terms
    - Staggered terms, so one third of seats are up for election every two years
- 435 Members of the House of Representatives
    - 2-year terms; elected every 2 years

The two houses are designed to:

- Be 'co-equal'
- Have checks and balances between them

6.2 Powers of Congress

US Congressional Powers

- Lawmaking powers
- Power of the purse
- Power to declare war
- Approve treaties
- Impeach presidents
- Oversight
- Confirms presidential nominations (Cabinet, Supreme Court)

Power-sharing

- Power-sharing is the paradigm of the US political system

- Theory of James Madison: Competition between the branches, because of our incentive to amass power, which creates mutual accountability
- That harnessing the drive for power — by designing for shared power — would create a check on power
- This overlooked the power of party capture to bypass this mechanism — Trumpism today
- The two chambers are equal in their legislative roles and functions
    - Only the House can originate revenue legislation
    - Only the Senate confirms presidential nominations and approves treaties
    - Enactment of law requires both chambers to separately agree to the same bill before presenting it to the President

How laws pass in Congress

- To pass legislation and send it to the President for signature, both the House and Senate must pass the bill by a simple majority vote
- If the President vetoes a bill, Congress may override his veto by passing the bill again in each chamber with at least a two-thirds majority in favour (supermajority)

Checks and balances

- Supermajority - two thirds in Congress
- Simple majority - 51 in Senate, 218 in House
- Filibuster (unlimited debate in Congress, used to delay or block a vote)
- Executive orders - increasingly used to carry out policies and programs without Congress (Bureau of Justice Assistance archive)
- All of this means that it is not necessarily easy for US Presidents to get their agendas through Congress: e.g. the House voted for Trump's 'repeal and replace' Obamacare bill, which Senator McCain famously blocked

Corollaries

By dividing power, you end up with:

- Slower decision-making
- Greater accountability than the principle of parliamentary sovereignty in the unitary system of the UK
- However, can lead to gridlock

Increasing government shutdowns

- Increase in frequency and duration of federal government shutdowns - disagreeing over budget and spending
- Signifies polarisation?

2025 government shutdown – the longest ever: Impacts on society

- Food assistance: “More than 40 million Americans use the Supplemental Nutrition Assistance Program (SNAP)”
- Military pay: “More than a million members of the US military will miss their paycheques on Friday”
- Heating: “Around six million Americans use a federal assistance initiative called the Low Income Home Energy Assistance Program (Liheap) for help paying utility bills”
- Federal workers: “Thousands of Americans work for the federal government as civilian employees and many of those folks will miss a paycheque this week”
- Air traffic controllers: “Thousands of air traffic controllers missed their first paycheques this week”

BBC, https://www.bbc.co.uk/news/articles/c74jden8ddxo

Insight: Partisan polarisation driving shutdowns that have worsened over time. Showdowns signal a wider cultural problem within American politics in polarisation of right and left. We see in research that more centrist candidates are winnowed out and there are incentives to adopt more extreme positions due to the internal dynamics of the two main parties.

6.3 Expanding Executive, Imperilled Congress?

DOGE: A Breach of Article 1 of US Constitution?

- Department of Government Efficiency (DOGE), new department set up by Trump in 2025 under direction from the Executive (US President)
- Cut funding and removed staff at USAID (international development) and Consumer Financial Protection Bureau (CFPB) by holding the flow of funds (payment systems)
- Seeking to shut down an agency without congressional decision, no approval for terminations and cuts
- Circumventing congressional authority to decide funding for agencies
- USAID & US soft power, 0.6 % of federal budget, foreign aid expenditure overall 1% of federal budget
- Breach of congressional powers as defined in Article I of the US Constitution - the power of the purse
- Data and systems access without authorisation: Breach of data privacy regarding government records
- Ordered to reinstate federal workers but hard to put a smashed vase back together; lost knowledge and expertise which are key to institutions

DOGE and the Constitution

" 'Based on the limited record I have before me I have some concerns about the constitutionality of the of USDS's structure and operation,' said [District Judge Colleen] Kollar-Kotelly, using the acronym of the US Digital Service that President Donald Trump renamed and restructured as the US DOGE Service on his first day in office.

Kollar-Kotelly has already imposed some temporary restrictions on how the Treasury Department can grant access to its systems that control trillions of dollars of payments each year. She is weighing a request by federal employee unions and a group representing retirees to impose a more permanent block on DOGE's access to the payment systems, which they argue is illegal".

Politico, https://www.politico.com/news/2025/02/24/judge-questions-constitutionality-doge-elon-musk-00205866

The Trump Ballroom

- Case study: Trump's demolition of the White House East Wing, to make way for a new ballroom
    - Does it breach congressional power to cease agency operations during a shutdown?
    - Breach of Article 1, Section 9, Clause 8 of US Constitution, violation of the Emoluments Clause (profiting from office)?
- Private funding for public property
- Argued that this breaches rules prohibiting use of public office for private gain (Richard W. Painter, Professor, Minnesota Law)
- Whether Trump's taking payment from businesses and foreign states are prohibited 'emoluments' — i.e. money must not be used without oversight of Congress

6.4 Takeaways

Takeaways 1: System design & theoretical insights

- The US Congress reflects the US political system at large: power-sharing, checks and balances
- Distinct from the unitary system of the UK (Parliamentary sovereignty principle)
- Slow decision-making and gridlock can result in the US
- 2024 elections were a wipeout and the Trifecta gives Trump 2 years to get his agenda through

Takeaways 2: Contemporary politics

- Congressional authority is being significantly weakened and challenged by the current administration, which is expanding the powers of the Executive, raising questions of how to enforce congressional authority and the US Constitution

- Weakening theories of New Constitutionalism that codified, entrenched constitutions are the gold standard / a silver bullet
- Weakens the idea that checks and balances can function when there is party capture
- Constitutions are not self-enforcing. How can they be effectively enforced to safeguard accountability and constraints on power?

Web links and explainers

- *Vox Explainer* – How A Bill Becomes Law
https://www.vox.com/2014/5/22/5723878/how-a-bill-becomes-a-law-in-2014
- US House of Representatives
https://www.house.gov/
- US Senate
https://www.senate.gov/
- US Library of Congress: The Legislative Process
https://www.congress.gov/legislative-process
- US Congress: How Our Laws Are Made
https://www.congress.gov/resources/display/content/how+our+laws+are+made+-+learn+about+the+legislative+process

---

6.5 FMCs' responses to Dr. Harmon's Lecture

Restoring Trust in Democratic Institutions

In response to a question on polarisation and restoring trust in US politics, Duncan (Rep.) was clear: Congress needed to get back to work and do its job. The House of Representatives, he noted, was best placed to reflect public opinion as it is elected every two years.

Ross (Dem.) said politicians needed to lead by example and speak the truth. He looked back to his own 2014 effort to run for Governor of Arkansas on leaving Congress and noted that – although he lost out to his Republican rival – he did not question the result. He suggested that MAGA Republicans increasingly believe Trump's claims regarding election fraud in 2020, and the sowing of doubt in voters' minds is eroding trust in the political system.

Ross urged legislators to focus on problem-solving instead of procedural wrangling. He argued that House members, who face re-election every two years, should reflect the will of their constituents through meaningful action. He also noted the recent comments by the current Secretary of State of Arkansas on voter fraud: Ross felt that, despite the very minimal fraud found, the governor was similarly stoking distrust in electoral integrity. Ross concluded once more by calling for an end to gerrymandering, which he hopes will reintroduce more compromise in US politics and help ease the rising polarisation of recent years.

Religion and the State

The next question focused on the role of religion in US politics today. Ross defended the First Amendment – which establishes freedom of religion – and the core US concept of separation of church and state. While he acknowledged his own personal faith (United Methodist), he argued that religious beliefs should not dictate national legislation: "there needs to always be a clear line that distinguishes between church and state".

Duncan agreed, pointing to the diversity of America's religious landscape, and warned against imposing a single religious view on everyone. That said, he noted that in some states the Ten Commandments were being put up in schools – and the US Constitution only says the federal government should refrain from interfering in religion, not the states. He argued that the federal government should not interfere in whether or not a school displays the Ten Commandments. He felt that federal government expansion, such as the establishment of the Department of Education, has blurred the line of authority on matters, such as education and religion, that are not within the federal government's constitutional remit.

Climate Change and Energy Transition

The question here related to Trump's climate change scepticism, and Duncan quickly responded that Trump pushed the notion that climate change was a hoax to create a debate. He then went on to argue that Trump's withdrawal from global climate efforts like the Paris Accords, was because these agreements were punitive and unjust to the United States while allowing China and India to continue to exploit fossil fuels. He also noted that Obama and Biden joined this accord unilaterally, rather than getting a treaty through the Senate. Trump, he argued, was withdrawing for a better negotiating position.

Ross spoke more generally about the need to be good stewards for the environment, and that – in spite of Trump – positive steps were being taken. He looked to an increase in wind energy but being conscious of the variations in wind and solar, he noted that this should be underpinned by nuclear energy. He added that it was true the US cannot climate change on its own (without China) but that they should lead by example.

Congressional Representation and Polarization

When thinking about whether Congress should better represent the United States (in terms of gender and ethnicity), Ross agreed that it should and that things are moving in the right direction: "it's more diverse than some people think". He also noted that this is perhaps more the case in the Democratic members in Congress than the Republican cohort.

Duncan agreed that it was more diverse than some think – listing a variety of prominent women and people of colour. He added that, regardless, politicians should be elected on merit ahead of anything else as there is nothing to restrict who is able to run –

“you've got to go out and prove yourself to be the best candidate in the United States of America, regardless”.

Hyper-partisanship and Institutional Crisis

Duncan bemoaned the fact that “compromise has become a dirty word,” especially on the extremes of each party. He pointed to Ross’s time in Congress, where – as a moderate Democrat – he was the sort of person who worked with the Republicans.

Ross drew a comparison between Congress and a high school full of cliques, and he found himself hanging out with likeminded moderates (of whom there were 54) who were able to get more attention from the party leadership as a group. His group worked “across the aisle” to find compromise. In comparison, he suggested, today the same group has only 21 members and the “middle has disappeared”. He concluded by noting that although this hyper-partisanship has been more pronounced in the US than the UK, it is on the rise everywhere.

Party Funding [question from the next talk but more relevant to Congress]

In a question that followed the next lecture, the FMCs agreed that big money was not as big an influence on politics in the US anymore. Ross argued that far more money was coming in smaller donations and from varied sources.

7. Lecture 4: Dr Emma Long

Understanding the Supreme Court Today

https://youtu.be/_NR5CbePUlM

7.1 Current Court Composition

9 Supreme Court Justices

- 3 appointed by Democrats and seen as legal liberals: Sonia Sotomayor (2009); Elena Kagan (2010); Ketanji Brown Jackson (2022)
- 6 appointed by Republicans and seen as legal conservatives: John G. Roberts, Jr. (2005); Clarence Thomas (1991); Samuel A. Alito, Jr. (2006); Neil M. Gorsuch (2017); Brett M. Kavanaugh (2018); Amy Coney Barrett (2020)

7.2 Current Polling and Perceptions on the Supreme Court

Unfavourable polling ratings (Pew):
https://www.pewresearch.org/short-reads/2025/09/03/favorable-views-of-supreme-court-remain-near-historic-low/

Too conservative (Gallup):
https://news.gallup.com/poll/695759/new-high-say-supreme-court-too-conservative.aspx

Negative Media Coverage

Independent: https://www.independent.co.uk/news/world/americas/justice-thomas-million-gifts-supreme-court-b2558309.html

BBC: https://www.bbc.co.uk/news/world-us-canada-60871794

Associated Press: https://apnews.com/article/supreme-court-sotomayor-book-sales-ethics-colleges-b2cb93493f927f995829762cb8338c02 ; https://apnews.com/article/supreme-court-flag-stop-steal-alito-trump-1842c40b833637c981c59c3f39bc4669

7.3 Legal v. Political Conservatism and Liberalism

7.3.1 Legal Conservatism

Legal conservatives

- read laws more narrowly and strictly
- see the text as most important, where ambiguities result in no action or keeping the status quo
- see law as a restraint on individual freedoms not an enabler of them and so should be used only when absolutely necessary

Two kinds of legal conservatism

Originalism

- text should be given the original public meaning that it would have had at the time that it became law
- original meaning can be discerned from dictionaries, grammar books, and from other legal documents; it can also be inferred from the background legal events and public debate that gave rise to a constitutional provision
- is an objective legal construct that exists independently of the subjective 'intentions' of those who wrote the text

Textualism

- focuses on the plain meaning of the text of a legal document
- emphasises how key terms would be understood by people at the time laws passed
- Sees an objective meaning of the text, and does not typically inquire into questions regarding the intent of the drafters, adopters, or ratifiers
- concerned primarily with the plain, or popular, meaning of the text of the Constitution; not concerned with the practical consequences of a decision

7.3.2 Legal Liberalism

Legal liberals

- read laws broadly
- favour an approach which emphasises the spirit of the law if there is ambiguity
- see law as an enabler of activity and a protector of rights (e.g. right to privacy)

Louis Brandeis and the 'Brandeis Brief'

The 1908 case, *Mueller v. Oregon* involved a law establishing maximum working hours for female workers. This Brandeis Brief to the Supreme Court was the first to draw on social, sociological, and real world consequences of the challenged law

US v. Carolene Products (1938)

Arguably one of the most important Supreme Court cases you've never heard of!

Make sure to read Footnote 4 (https://www.oyez.org/cases/1900-1940/304us144):

"There may be narrower scope for operation of the presumption of constitutionality when legislation appears on its face to be within a specific prohibition of the Constitution, such as those of the first ten amendments, which are deemed equally specific when held to be embraced within the Fourteenth ...

It is unnecessary to consider now whether legislation which restricts those political processes which can ordinarily be expected to bring about repeal of undesirable legislation is to be subjected to more exacting judicial scrutiny under the general prohibitions of the Fourteenth Amendment than are most other types of legislation ...

Nor need we enquire whether similar considerations enter into the review of statutes directed at particular religious ... or racial minorities: ... whether prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry".

The conservative challenge to the courts has a long history ...

- Opposition to the rulings of the Warren Court era (Earl Warren, Chief Justice, 1953-1969)
- Richard Nixon's 1968 presidential campaign
- President Ronald Reagan and 'strict constructionism'
- Growth of the conservative legal world to encourage and support development of conservative legal doctrine – professional organisations, think tanks, legal advocacy firms, law schools, etc.
- Examples: The Federalist Society, Americans United for Life, American Center for Law & Justice, Institute for Justice, Family Research Council, Alliance Defending Freedom, The Heritage Foundation, Liberty Council, Concerned Women for America

7.4 A 6/3 Court? Or a 3/3/3 Court?

The most popular reading of the Justices affiliations and leanings is to see a Conservative (6) / Liberal (3) split:

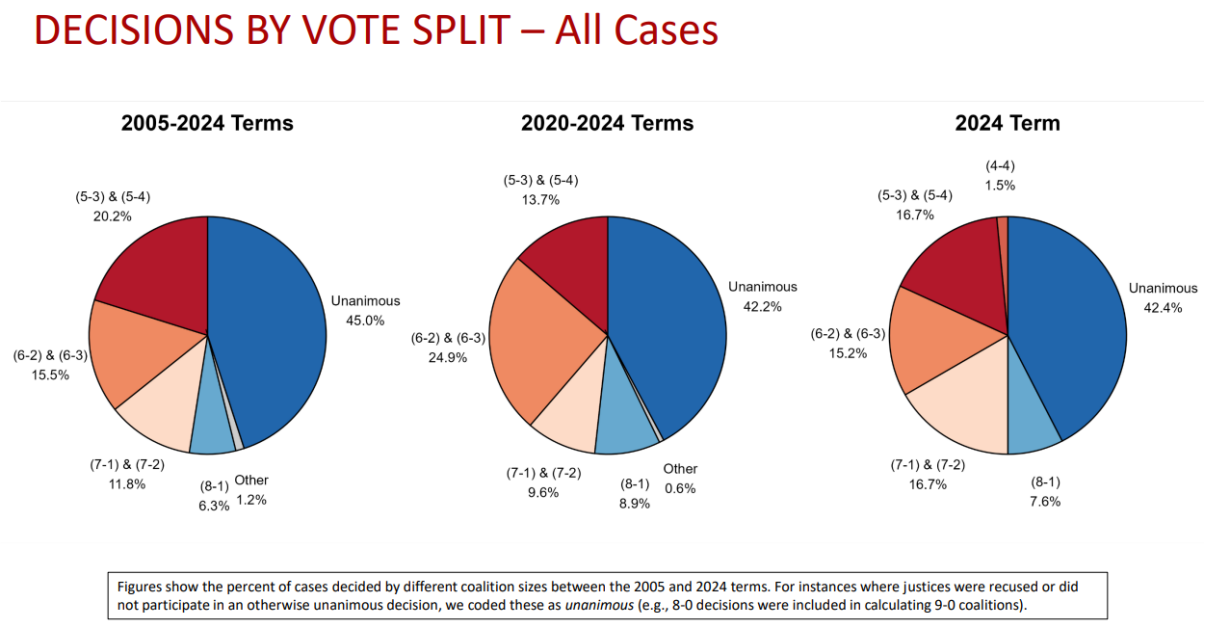
Conservatives: Roberts, Thomas, Gorsuch, Kavanaugh, Alito and Coney-Barrett
Liberals: Sotomayor, Kagan and Jackson

There is another reading, however, which sees a Conservative (3) / Liberal (3) and Consequentialist / Institutionalist (3) split:

Conservatives: Thomas, Alito and Gorsuch
Consequentialists / Institutionalists: Roberts, Kavanaugh and Coney-Barrett
Liberals: Sotomayor, Kagan and Jackson

Commentators such as Sarah Isgur and Dean Jens identify a 'consequentialist' tendency in three of the Justices – this sees their decisions and voting practices guided by the potential impact or consequence of the Supreme Court's decisions might be in the real world, and in particular on the practice of federal law and the Court's own legitimacy

https://www.politico.com/news/magazine/2024/06/02/supreme-court-justice-math-00152188



Figures show the percent of cases decided by different coalition sizes between the 2005 and 2024 terms. For instances where justices were recused or did not participate in an otherwise unanimous decision, we coded these as *unanimous* (e.g., 8-0 decisions were included in calculating 9-0 coalitions).

7.5 The Roberts Court: Activist or Restrained?

A common liberal criticism of the current Supreme Court is that it is overturning precedent and pursuing a conservative legal and political agenda at an considerable rate.

Other commentators dissent form that view, for instance Jonathan Adler, who shows that, statistically speaking, the Roberts court is overturning or challenging precedent far less than its predecessors.

https://www.nationalreview.com/magazine/2023/07/31/the-restrained-roberts-court/

However, Adler and other conservative defenders of the Roberts Court are perhaps not paying due attention to the nature and character of the legislation or precedent that the Roberts court *is* challenging or overturning, for instance:

- Are these cases overturning the Constitution or ordinary legislation?
- What about the impact of cases which overturn precedent?
    - *Dobbs v. Jackson Women's Health* (2022) on abortion
    - *Loper Bright Enterprises v. Raimondo* (2024) on how courts review federal agencies' interpretations of laws, with far reaching consequences for issues like environmental regulations
    - *Trump v. Slaughter* (2025) on presidential power over independent regulatory agencies

7.6 The Roberts Court: Power of the Executive Branch?

Is the Roberts Court bolstering the power of the Presidency? A number of recent cases certainly seem to have gone in Donald Trump's favour.

Recent Cases:

- *Trump v. US* (2024) – presidential immunity

Current Cases:

- *Trump v. Slaughter* – remove executive officers
- *Trump v. Cook* – remove executive officers
- *Learning Resources v. Trump* – emergency power to impose tariffs

Non-case actions:

- *Department of State v. AIDS Vaccine Advocacy Coalition* – refusal to distribute of government funds
- *Trump v. Wilcox*; *Trump v. Boyle* – removal of executive officers
- *McMahon v. New York* – fire staff from government agencies

7.7 FMCs' responses to Dr. Long's Lecture

Majority-Minority Districts

The first question asked was about the impact of the recent ruling on majority-minority districts. Duncan (Rep.) said that it was interesting as it challenged the Voting Rights Act (1965) and that, if the Court rules a certain way, Congress might well pass new legislation to protect minority rights.

Abortion & Constitutional Questions

Duncan noted that the Court had made it a states' rights issue whereas Ross thinks the decision was a mistake, as he believes in a woman's right to choose. Both FMCs are personally opposed to abortion. Ross (Dem.) also outlined how hard it is to get an abortion in his home state of Arkansas, and that because privileged women with means to travel to a pro-choice state still had *de facto* abortion access, the restrictive legislation necessarily disproportionately impacted poorer women.

Politicisation of the Court

Duncan said that the history of the Court has seen it lean liberal and conservative at different times. However, it gets a lot more media attention than in previous years – with far more widespread attention (maybe dating back to the Clarence Thomas-Anita Hill affair).

Ross argued that the balance of the Court was the luck of the draw – in that Trump was able to appoint three justices in his first term. He also noted that only a couple of the justices were over 75 (Thomas and Alito). He further recalled the controversy surrounding Obama's efforts to get Merrick Garland appointed. He calls for a term limit and/or an age limit (Duncan agreed with this).

Gun Control

Duncan outlined his support for security in schools, with resource officers on site. He noted his support for the Second Amendment and people's right to defend themselves – "when seconds count, the police are just minutes away". The Supreme Court, he noted, will decide on the lawfulness of reform efforts in states to restrict guns on a mental health basis.

Ross broadly agreed, supporting the Second Amendment, and he further outlined how difficult it is to amend the US Constitution in the United States today. In America, he said the issue of gun ownership is not a Democrat-Republican divide but an urban-rural divide. For example, he argued, rural communities used guns to hunt and defend themselves in remote places (such as his wife, with a long commute to work through the countryside alone): "I don't think we have a gun problem in America, I think we have

a mental health problem in America". He said people who want to do harm will do it whether guns are around or not, looking to knife crime in the UK to support this.

ICE raids under the Trump Administration

Ross felt they are overstepping. He noted that illegal immigration was a problem in many nations but that most migrants were seeking to work and build a better life. He suggested that ICE raids threatening people, wearing masks, and chasing them was not the right way forward for the United States.

Duncan argued that ICE had been charged with a job to do and that people who disagree with it have brought the attention to this by recording them, causing the ICE officers to wear masks. He recalled the Elian Gonzalez case under Bill Clinton's presidency, suggesting that recent raids were being blown out of proportion.