PL SC 541: American Political Institutions – Judicial Politics

Spring 2015

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Course Description

As the title suggests, this is a course on the politics of courts and judiciaries. It is a graduate-level course in political science; that means that the primary purpose of the course is to bring students up to speed on current theoretical and empirical developments in research on judicial politics, and to begin to enable them to conduct research in that area. Despite its title, the course is explicitly designed to cross subfield boundaries; more than one third of the course readings are drawn from comparative politics, and the course may “count” in either the American politics or comparative politics Ph.D. subfields at Penn State.

The assumption throughout the course is that students in the course are beginning their careers as researchers and educators at the college/university level, and the course content, structure, and evaluative processes are based on that assumption. The course thus assumes a working knowledge of the “facts” of the American legal and political systems, including their history, institutions, and operation. Hot links are highlighted in Penn State blue.

Texts

I ask that you buy only one book for this course:


Order the paperback copy on-line; it is not available in the bookstores. Additional readings will be available either on ANGEL™ or via JSTOR, ProQuest™, or similar services through the PSU library. Readings are organized topically, and divided into required and recommended lists. The vast majority of readings in the course are books and articles which present empirical research on aspects of the American legal, judicial, and political systems. Some of the readings will be technical in nature; students are expected to master the technical material as they go along.

All students should come to class having read the required readings; recommended readings should be thought of as optional, and are designed to provide more depth on the topic. The latter will be especially useful for students writing papers on that (or a related) topic. Note that this syllabus
does not begin to exhaust the scholarly literature in this area; I anticipate completing and making available a more complete bibliography later in the semester. In addition, the syllabus reflects my own perspectives on and biases about this topic and its associated literature.

Grading

Grading will be based on a total of 1000 points, divided as follows:

- Short reaction papers: Three, worth 100 points each.
- An individual final paper/project, worth 500 points.
- A class-wide research project, worth 100 points.
- Class participation / engagement, worth 100 points

Over the course of the semester, each student will complete three reaction papers, each in response to one or (at most) two of the assigned readings. Students are allowed to select the articles on which they write papers. Each of those papers will be due at the beginning of class on the day on which the article(s) in question are being discussed. Papers will be typed, double-spaced, and no longer than about 1200 words. The content of the paper is up to the responder, but might include a critique (theoretical, methodological, or otherwise) of the research, one or more suggestion(s) for how the research fits within or contributes to some area(s) or debate(s) not recognized by the author, a short discussion of how the research might be built upon or expanded in future work, or something else. Except as necessary to motivate the response paper’s main point(s), the response paper should not simply summarize the research’s theory, methods, and conclusions; response papers which do no more than summarize will receive zero credit. Response papers will be graded on the basis of their manifest understanding of the research, originality, and cogency, as well as the usual spelling, grammar, usage, etc.

Because the course is small, we will also undertake a group research project. This will involve selecting a topic, setting out a theory or theories, developing hypotheses, and examining those hypotheses empirically. The result will be a complete article-length research paper. *Note that everyone in the class will receive the same “score” on this aspect of their grade.*

Details for the final project will be announced in class at a later date. Class participation credit will be assigned by the instructor.

Office Hours

As a rule, I do not maintain regular office hours; meetings are by appointment only. If you need to contact me please do so via e-mail (preferred) or telephone/text.
Other Policies

- **Absences.** You can be absent from class if you choose to be. You’re welcome to inform me if that is the case, but you need not do so.

- **Incompletes.** There will be no incompletes given in this class.

- **Cheating, Plagiarism, and Academic Misconduct.** See below. If you are unfamiliar with standards regarding plagiarism, learn them; a good place to start is here. The professor is not responsible for students’ lack of understanding of standards regarding academic misconduct.

Some Other Useful Resources

The APSA’s Law and Courts Organized Section is the relevant professional organization for most of the people taking this class. Other organizations to which you may want to belong / pay attention include the Law and Society Association, the American Judicature Society, and the American Society for Criminology. Much research on judicial politics (including many Ph.D. dissertations) is funded by the Law and Social Sciences Program of the National Science Foundation.

If you are reading this, then it’s likely the Center for Empirical Research in the Law (CERL) at Washington University in St. Louis has lots of stuff of interest to you. More concretely, the Judicial Research Initiative (JuRI) at the University of South Carolina archives databases on many things judicial, including Spaeth’s Supreme Court Database, Songer’s Court of Appeals Database, and data on the personal attributes of Article III judges. Similarly, Georgetown’s Erik Voeten maintains a web portal with extensive data on various international courts. And, of course, the Inter-University Consortium for Political and Social Research (ICPSR), at the University of Michigan, maintains an extensive archive of data in the social and behavioral sciences.

Obligatory Statement on Academic Dishonesty

The Department of Political Science, along with the College of the Liberal Arts and the University, takes violations of academic dishonesty seriously. Observing basic honesty in one’s work, words, ideas, and actions is a principle to which all members of the community are required to subscribe.

All course work by students is to be done on an individual basis unless an instructor clearly states that an alternative is acceptable. Any reference materials used in the preparation of any assignment must be explicitly cited. Students uncertain about proper citation are responsible for checking with their instructor.

In an examination setting, unless the instructor gives explicit prior instructions to the contrary, whether the examination is in-class or take-home, violations of academic integrity shall consist but are not limited to any attempt to receive assistance from written or printed aids, or from any person or papers or electronic devices, or of any attempt to give assistance, whether the one so doing has completed his or her own work or not.
Lying to the instructor or purposely misleading any Penn State administrator shall also constitute a violation of academic integrity.

In cases of any violation of academic integrity it is the policy of the Department of Political Science to follow procedures established by the College of the Liberal Arts. More information on academic integrity and procedures followed for violation can be found here.

**Obligatory Statement on Disabilities**

The Pennsylvania State University encourages qualified people with disabilities to participate in its programs and activities and is committed to the policy that all people shall have equal access to programs, facilities, and admissions without regard to personal characteristics not related to ability, performance, or qualifications as determined by University policy or by state or federal authorities. If you anticipate needing any type of accommodation in this course or have questions about physical access, please tell the instructor as soon as possible. Reasonable accommodations will be made for all students with disabilities, but it is the student’s responsibility to inform the instructor early in the term. Do not wait until just before an exam to decide you want to inform the instructor of a learning disability; any accommodations for disabilities must be arranged well in advance.

**Course Schedule**

Required readings for each week are below. I have placed recommended readings for each week in a separate section at the end of the syllabus; the latter will be useful when working on your research paper. The recommended readings begin on p. 12. While I try to be thorough, the latter are by no means exhaustive; moreover, they reflect my own biases and predilections. Apologies to those who were inadvertently omitted.

**January 14: Introduction**

No readings assigned. If you are not already familiar with the operation of the U.S. federal judicial system, consider quickly reading one or more of the following:

- *SCAMR*, Chapters 1 and 4.
January 21 (rescheduled): Theories of Judicial Behavior

Required:


- *SCAMR*, Chapters 2-3.


January 28 (rescheduled): Measurement – Key Concepts

Required:


February 4: Judicial Selection

Required:


### February 11: Setting the Judicial Agenda

**Required:**


### February 18: Decision Making I

**Required:**


• SCAMR, Chapters 7-8.


February 25: Decision Making II

Required:


March 4: No Class – Behavioral Genetics Workshop

March 11: No Class – Spring Break

March 18: More Decision Making – The Law

Required:


• Jurisprudential Regimes:


**March 25: Judicial Hierarchies**

**Required:**


**April 1: Parties and Interests**

**Required:**


April 8: Courts and their Publics

Required:


April 15: Judicial Legitimacy

Required:


- Exchange:


April 22: Courts and the Separation of Powers

Required:


April 29: Implementation and Impact

Required:


**Postscript: The Big Picture**

*Recommended:*


Recommended Readings

January 21: Theories of Judicial Behavior

Recommended:


January 28: Measurement – Key Concepts

Recommended:


February 4: Judicial Selection

Recommended:


• Farganis, Dion, and Justin Wedeking. Forthcoming. Supreme Court Confirmation Hearings in the U.S. Senate: Reconsidering the Charade. Ann Arbor, MI: University of Michigan Press.


• *SCAMR*, Chapter 5.


• Williams, Margaret. 2007. “Women’s Representation on State Trial and Appellate Courts,” *Social Science Quarterly* 88:1192-1204.


*Departures:*


Judicial Elections:


**February 11: Setting the Judicial Agenda**

**Recommended:**


• Baird, Vanessa. 2006. *Answering the Call of the Court: How Justices and Litigants Set the Court’s Agenda*. Charlottesville, VA: University of Virginia Press.


• SCAMR, Chapter 6.


• SCAMR, Chapter 6.


**February 11 & 18: Decision Making**

**Recommended:**


**Norms, Consensual and Otherwise:**


Opinions, etc.:


• SCAMR, Chapter 9.


Acclimation Effects:


March 18: More Decision Making – The Law

Recommended:


Precedent


### March 25: Judicial Hierarchies

**Recommended:**


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**April 1: Parties and Interests**

**Recommended:**


*The Solicitor General*


April 8: Courts and their Publics

Recommended:


April 15: Judicial Legitimacy
Recommended:


April 22: Courts and the Separation of Powers

Recommended:


  Political Research Quarterly 46:311.


  Cambridge University Press.

• Yates, Jeff, and Andrew Whitford. 1998. “Presidential Power and the United States Supreme 
  Court.” Political Research Quarterly 51:539-50.

• Zorn, Christopher. 2006. “Congress and the Supreme Court: Reevaluating the ‘Interest- 
  Group Perspective.’” In Jon R. Bond, Roy Flemming, and James L. Rogers, eds. Institutional 
  Games and the U.S. Supreme Court. Charlottesville: University of Virginia Press.

April 29: Implementation and Impact

Recommended:

  of the Media’s Framing of Supreme Court Procedures on Perceptions of Fairness.” Political 

  American Politics Quarterly 4:86-114.

• Carrubba, Clifford J. 2005. “Courts and Compliance in International Regulatory Regimes.” 

• Djankov, Simeon, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer. 2003. 

  Court Decision to Local Practice. Chicago: University of Chicago Press.

• Ekland-Olson, Sheldon, and Steve J. Martin. 1988. “Organizational Compliance with Court- 

  Harvard University Press.

• Frye, Timothy, and Ekaterina Zhuravskaya. 2000. “Rackets, Regulations, and the Rule of 

• Giles, Micheal W., and Douglas Gatlin. 1980. “Mass Level Compliance with Public Policy: 


• Staton, Jeffrey K. 2004. “Judicial Policy Implementation in Mexico City and Mérida.” *Comparative Politics* 37:41-60.


