

PSC 545: Judicial Politics

Thursdays 4:50–7:30pm, Fenno Room

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Introduction

This course is an advanced introduction to contemporary political science scholarship on the courts. We'll cover topics such as decision making, ideological measurement, collegiality, panel effects, strategic auditing and signaling, and the role of doctrine in decision making. Throughout, we'll read works written by the leading active scholars in the field.

The class has only two objectives. The first objective is to introduce you to the most contemporary, cutting-edge work being done on law and courts by political scientists. The second objective is for the class to be *professionally useful*. I want to achieve this by providing you an opportunity to try your hand at original empirical (or formal) research in a supportive, collegial environment, and by learning how to be an effective discussant (and, by extension, journal referee). By the end, you will be familiar with the literature on law and courts and you should be well positioned to pursue further work in this area.

Grading

Your grade in this class will be composed of two components: (1) a research contribution (see below) and (2) class participation.

Research Contribution (60%) Each student will write a research paper, or some part of a bigger research paper, over the course of semester. I am flexible. You have four options:

1. An *original*¹ 20-30 page manuscript that develops some theoretical frame or argument and explores it or tests it using empirical data. A strong manuscript would be one that

¹By this I mean something that has not been submitted to another class before and for which no existing draft exists.

develops the core components of a paper that plausibly would turn into a second-year paper, conference paper, or dissertation chapter. Ideally, this would form the bedrock of what could become a successful journal submission.

2. An *original* 20-30 page manuscript that develops some theoretical frame or argument and develops it using (and solving) a formal model. A strong manuscript would be one that develops the core components of a paper that plausibly would turn into a second-year paper, conference paper, or dissertation chapter. Ideally, this would form the bedrock of what could become a successful journal submission.
3. A *co-authored* 3-40 page manuscript that is written either between two (or more) students, or between the student/s and the instructor (i.e., me). In this case, special approval is required to ensure roughly equal contributions by both parties that approximate the effort required by the other options. A strong manuscript would be one that would approach a final submittable manuscript (to a top mainstream or top subfield journal) by the end of the semester. If you are interested in this option, please approach me early in the semester.²
4. An 30-40 manuscript that represents *an improvement over an existing draft* that was either prepared for another class or as part of another project. In such cases, I would need to be persuaded that the work that will be inputted into the project would be on the order approximating Options 1–3. This option would be appropriate for those who anticipate that this paper will be a second-year paper, dissertation chapter, or conference or journal submission. I will hold these sorts of paper to a very high standard, and strong submissions should be in nearly publishable shape by the end of the semester. If you are interested in this option, please approach me early in the semester.

Each student is responsible for submitting a 1-2 page proposal to the instructor by February 20 and presenting it to the group as a short (5–7 minute long) presentation. (No slides necessary.) Thereafter, you will be expected to provide the group with a status update on your project at every class meeting. (The small size of the class affords the possibility of such an informal exchange).

Final submissions must be done in L^AT_EX with appropriate formatting and compiled citations. I'm happy to help on this.

Class Participation (40%) I will assign each student a class participation score at the end of the semester. These scores will count for 40% of the final grade. They will be composed of:

²I welcome those who wish to pursue a co-authorship with me as your final paper. However, I will agree to a co-authorship if I am persuaded that the final product would be of publishable quality. The end result might be more work than would ordinarily be required of a seminar; however, you might (1) learn more and (2) get a publication out of it. Note that submitting a separate paper for the class does not preclude us working together, either now or in the future.

- Leading the discussion for *two class meetings* (20% combined). Leading the discussion entails a presentation to the group in which the readings are (1) summarized, (2) explained in the context of the literature, (3) critiqued, and (4) further discussion questions are posed. Please prepare these in the way that you would prepare discussant comments while at a conference. (Preparing beamer slides in L^AT_EX is encouraged, as this will be great practice for you.)
- Present your own paper at the end of the semester (10%). This will entail a 30 minute presentation where you provide an overview of your puzzle, your theory, your data (or formal assumptions and game set-up), your results (or your equilibria), and your conclusions. Although not required, you are *strongly* encouraged to prepare slides.
- Participate in all class discussions (10%). It's a small group. We all need to speak up.

Office Hours and Email

I have an open-door office policy, meaning that you are welcome to stop by at any point between approximately 9:30am and 5pm Monday through Friday, excluding around noon for lunch. For those who prefer office hours, I have office hours Wednesdays 10am to noon. I'm always available by email.

Course readings

There are no required books for this course. Instead, we will be reading journal articles from legal academics and social scientists as well as a draft version of a book manuscript from Andrew Martin et al (hosted on Blackboard). Most readings will be available via Google, JSTOR, or HeinOnline (via UR subscriptions). It's your responsibility to locate and download the required readings for each week; let me know if you have trouble locating the assigned readings for the week.

Cancelled Class

There will be no class the week of MPSA. Also, please be aware that I will be out of town the week of March 27. Barring flight delays, I should be able to make it to class that day; if not, we will reschedule that class meeting as necessary.

Political Economy and Public Law Meeting

You are all encouraged to attend the Conference on Political Economy and Public Law (PEPL, or "people"), which is being hosted by the University of Rochester in late May (with myself and Stu Jordan as co-organizers). In attendance will be Sandy Gordon, Sean Gailmard, John Patty, Deborah Beim, Kelly Rader, Jon Kastlelec, Tom Clark, and others – a great group of young courts/institutions scholars. It is a great opportunity for you to get to know top people in this field.

Tentative Schedule and Readings³

January 16: Introduction (no readings)

- Friedman, Barry. 2006. "Taking Law Seriously." *Perspectives on Politics*. 4: 261-276.

January 23: Law and constraint

- Lax, Jeffrey R. "The new judicial politics of legal doctrine." *Annual Review of Political Science* 14 (2011): 131-157.
- Bailey, Michael A., and Forrest Maltzman. "Does legal doctrine matter? Unpacking law and policy preferences on the US Supreme Court." *American Political Science Review* 102.3 (2008): 369-84.
- Lax, Jeffrey R., and Kelly T. Rader. "Legal Constraints on Supreme Court Decision Making: Do Jurisprudential Regimes Exist?" *Journal of Politics* 72.1 (2010): 273-84.

January 30: Scaling and Measurement

- Martin, Andrew D., and Kevin M. Quinn. "Dynamic ideal point estimation via Markov chain Monte Carlo for the US Supreme Court, 1953–1999." *Political Analysis* 10.2 (2002): 134-153.
- Lauderdale, Benjamin E., and Tom S. Clark. "The Supreme Court's many median justices." *American Political Science Review* 106.4 (2012): 847-866.

February 6: Hierarchy, Compliance, and Signaling

- Bein, Deborah and Jon Kastle and Alex Hirsch, "Whistleblowing and Compliance in the Judicial Hierarchy," *American Journal of Political Science* (Forthcoming, 2014).
- Kastle, Jonathan P. "Hierarchical and collegial politics on the US Courts of Appeals." *The Journal of Politics* 73.02 (2011): 345-361.
- Westerland, Chad, et al. "Strategic defiance and compliance in the US courts of appeals." *American Journal of Political Science* 54.4 (2010): 891-905.

February 13: Collegiality

- Landa, Dimitri, and Jeffrey R. Lax. "Legal Doctrine on Collegial Courts." *Journal of Politics* 3 (2009): 946-963.
- Carrubba, Cliff, et al. "Who controls the content of Supreme Court opinions?." *American Journal of Political Science* 56.2 (2012): 400-412.

³Note: Schedule and list of readings is subject to change.

February 20: Identity and Diversity

- Boyd, Christina L., Lee Epstein, and Andrew D. Martin. “Untangling the causal effects of sex on judging.” *American Journal of Political Science* 54.2 (2010): 389-411.
- Glynn, Adam, and Maya Sen. “Identifying Judicial Empathy: Does Having Daughters Cause Judges to Rule for Women’s Issues?” *American Journal of Political Science* (forthcoming, 2014).

PAPER PROPOSALS DUE and IN-CLASS DISCUSSIONS ABOUT PROPOSALS.

February 27: Opinions as Textual Data

- Lauderdale, Benjamin E., and Tom S. Clark, “Scaling Politically Meaningful Dimensions Using Texts and Votes.” *American Journal of Political Science* (forthcoming, 2014).
- Michael Gill and Andrew Hall, “How Judicial Identity Shapes the Text of Appellate Court Rulings” (working paper).

March 6: Public Opinion I

- Casillas, Christopher J., Peter K. Enns, and Patrick C. Wohlfarth. “How public opinion constrains the US Supreme Court.” *American Journal of Political Science* 55.1 (2011): 74-88.
- Bartels, Brandon L., and Christopher D. Johnston. “On the Ideological Foundations of Supreme Court Legitimacy in the American Public.” *American Journal of Political Science* 57.1 (2013): 184-199.

March 13: NO CLASS (SPRING BREAK)

March 20: Public Opinion II

- Gibson, James L., and Gregory A. Caldeira. “Confirmation politics and the legitimacy of the US Supreme Court: Institutional loyalty, positivity bias, and the Alito nomination.” *American Journal of Political Science* 53.1 (2009): 139-155.
- Christenson, Dino P., and David M. Glick. “Roberts’s Health Care Decision Disrobed: The Micro-Foundations of the Court’s Legitimacy” (working paper, 2013)
- Ura, Joseph Daniel. “Backlash and Legitimation: Macro Political Responses to Supreme Court Decisions.” *American Journal of Political Science* 58.1 (2014): 110-126.

March 27: Nominations and Separation of Powers

- Krehbiel, Keith. “Supreme Court Appointments as a Move-the-Median Game.” *American Journal of Political Science* 51.2 (2007): 231-240.
- Owens, Ryan J. “The separation of powers and Supreme Court agenda setting.” *American Journal of Political Science* 54.2 (2010): 412-427.

April 3: NO CLASS (MPSA)

April 10: Elections, Retentions, and Independence

- Box-Steffensmeier, Janet M., Dino P. Christenson and Matthew Hitt. 2013. “Quality Over Quantity: Amici Influence and Judicial Decision Making.” *American Political Science Review*, 107(3): 1–15.
- Gordon, Sanford C., and Gregory A. Huber. “The effect of electoral competitiveness on incumbent behavior.” *Quarterly Journal of Political Science* 2.2 (2007): 107-138.
- Canes-Wrone, Brandice, Tom S. Clark, and Jason P. Kelly. “Judicial Selection and Death Penalty Decisions.” *American Political Science Review* (forthcoming, 2014).

April 17: Student presentations (two per day)

April 24: Student presentations (two per day)

May 4: Papers due