

**Columbia University
Department of Political Science
Undergraduate Program
Spring 2013**

Judicial Politics (W3210)
Tu/Th 11:40 – 12:55

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This course provides an introduction to the political science of law and courts, known as judicial politics. This is not a course on constitutional law, and the focus will not be on the development of legal doctrines or close readings of important cases (though we will discuss cases to illustrate and examine the topics of the course). Instead, we will evaluate law and courts as political institutions and judges as political actors and policy-makers. The topics we will study include what courts do; how different legal systems function; the operation of legal norms; the U.S. judicial system; the power of courts; constraints on judicial power; judicial review; the origin of judicial institutions; how and why Supreme Court justices make the decisions they do; case selection; conflict between the Court and the other branches of government; decision making and conflict within the judicial hierarchy; the place of courts in American political history; and judicial appointments. Our main focus will be the American legal system and U.S. federal courts, but we will discuss other courts and legal systems as well.

Office Hours and Appointments

My office hours are by appointment, in 725 IAB, with Tuesday afternoons being the preferred time. I am always happy to meet with students. Nonetheless, as I am subject to administrative interruptions often beyond my control, it is best to request an appointment via email.

Teaching Assistants

- Amber Spry (ads2183) – office hours TBA
- Matthew Salant (mss2185) – office hours TBA

Course Requirements

Your grade will be split into three equal parts between two in-class exams and a final paper. The first exam will be approximately at midterm. The second exam will be the last day of classes. The paper will be due after that, but not during reading period. Participation in lecture will be appreciated and rewarded (up to one additional grade notch). Many important topics are only covered in the lectures, and so it will be difficult to do well in the class without attending them. Both exams will include a combination of short answer and essays questions (short or long). The second exam is cumulative, but will prioritize the second half of the course. The paper proposal will be graded, making up part of the paper grade.

Course Rules

No late work will be accepted or makeup exams given except under extreme circumstances and given official university permission. If any issues arise, you should notify me immediately, and in advance, if at all possible. Do not schedule flights for spring break or the end of the semester that will interfere with your taking exams on time; that will not be considered a legitimate reason for missing them. Issues of academic integrity are to be treated with the utmost seriousness.

Research Papers

The goal of the research paper is to explore a topic in judicial politics beyond what you cover in the assigned readings and beyond what I cover in lectures. Good papers will apply the course concepts to the research materials in interesting ways. Topics may only be selected with prior approval. You will be asked to submit a paper proposal early in the semester. You should start looking for a potential topic as soon as possible, as you might not find the “right” one on the first try. Students will have the option of writing the paper in a group of up to four people. Note that group papers will carry higher expectations, and that part of your grade on a group paper will be determined by an assessment of your performance by your fellow group members. Slackers can confidently expect retribution.

Readings

Required readings will consist of three books (soon to be available at Book Culture, 112th St. between Broadway and Amsterdam) and occasional supplemental reading. Electronic copies of the early readings will be provided. Used copies are available from various online sources.

- **MPEK.** Murphy, Walter F., C. Herman Pritchett, Lee Epstein, & Jack Knight. 2006 (5th or 6th edition). *Courts, Judges, and Politics: An Introduction to the Judicial Process*. Note: a reading denoted “x.0” signifies the introductory material in chap.x.
- **EK.** Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*.
- **PAC.** Miller, William. *A Primer on American Courts*

Readings are not evenly distributed over time, and are assigned by topic, not date. Read ahead when possible.

I. Studying courts	MPEK: 1.0-1.5, 2.1, 7.0, 7.2, 7.3, 7.4; PAC: 1, Appx. C
II. Legal systems	MPEK: 2.0; PAC: 2, 4, Appx. A
III. Judicial systems	MPEK: 3 (all)
IV. Federal court power	MPEK: 2.2, 2.3
V. Sup. Court power	MPEK: 2.4, 2.5, 8.0, 9.9-9.11; PAC: 5
VI. The “Legal Model”	MPEK: 8.1, 9.0, 10 (all), 11 (all), 12 (all but 12.1); PAC: 3
VII. Internal politics	MPEK: 13.0, 13.5-13.7 [5 th ed.:13.0, 13.7-13.9]; EK: 1-4, 6
VIII. Getting into court	MPEK: 6.0-6.3, 7.1
IX. Hierarchy	MPEK: 7.1, 8.3, 13.3
X. External politics	MPEK: 4.0-4.2, 4.6-4.10, 8.0, 8.2-8.10 [5 th ed.: up to 8.12], 12.1, 14.0-14.1, 14.3-14.6; EK: 5

Topics

The following is approximate and subject to revision. Coverage of topics varies year to year, so we might not get to the last topics in full.

Introduction

I. Studying courts and judicial behavior.

II. Legal systems. The U.S. legal system.

III. Judicial systems. The organization of the U.S. judicial system.

IV. Judicial policy-making. Why are federal courts so powerful?

Federalism.

Judicial review, its origins, and in a comparative context

V. Why is the Supreme Court so powerful? The Attitudinal Model.

Challenges to and evidence for the Attitudinal Model.

VI. The "Legal Model." Legal reasoning.

Canons of construction, text, plain meaning, and original intent.

Stare decisis. Evidence for stare decisis.

VII. Collegial politics and strategic behavior.

Introduction to the judicial process in the Supreme Court.

Internal Court politics.

Evidence of strategic behavior.

Modeling judicial preferences.

Bargaining in the Supreme Court

Opinion assignment.

VIII. Getting into court. Legal barriers.

Case selection in the Supreme Court (certiorari).

IX. The judicial hierarchy.

Law and politics.

Control and compliance.

Certiorari and compliance.

X. External politics. The Separation of Powers Game(s).

Origins of and changes in the U.S. judicial system.

Judicial appointments