

## SEMINAR ON LAW, COURTS, AND POLITICS

PL SC 541  
T 3:00 PM – 6:00 PM  
207 Osmond Lab  
Office Hours: TR 10:30-11:30 AM (And by Appointment)

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### COURSE DESCRIPTION

The study of law and courts in political science has traditionally been divided into three subfields: (1) public law, which includes the study of the philosophical underpinnings of law as well as constitutional law; (2) judicial behavior, the analysis of the political processes by which judges are selected and decide cases, and (3) law and society, the investigation of the relationship between legal processes and public policy. In this seminar, we will explore all three subfields, discussing the answers political scientists have provided for questions including: What is law? How do legal principles and extralegal pressures affect judicial decisionmaking? When do organized interests use legal processes to achieve social change (and when are they successful)? When do constitutional provisions affect the protection of citizens' rights? Our readings will be drawn from all subfields of political science, and this course will satisfy requirements for either American Politics or Comparative Politics. Students' research interests will help to focus the course's content. Students will complete several short writing assignments and write an article-length term paper.

### OBJECTIVES

By the end of the course, students will be able to:

- (1) Explain the major findings in the study of public law, judicial politics, and law and society.
- (2) Employ data analytic and methodological tools used by scholars of law and courts.
- (3) Propose promising research topics in the study of American and comparative law and courts.
- (4) Evaluate studies of law and courts orally and in writing.
- (5) Communicate results of original research orally and in writing.

### COURSE MATERIALS

We will read a variety of books and articles. The articles are available online. If you have trouble finding copies of any assigned reading, please let me know.

### COURSE REQUIREMENTS

The requirements for this course involve both (1) the completion of reading assignments and written work on your own outside of our class meetings and (2) your active and informed contributions to our course discussions when we meet. This course is a seminar. You are expected to come prepared to talk.

DATA ANALYSES (20%). You will also complete a series of data analysis assignments aimed at helping you learn some basic data manipulation and analysis tasks (e.g. graphing data, running and interpreting statistical models, merging data, etc.) that are common in the quantitative analysis of law and courts. More information will be provided in class, and the write-up will be short (about 2 pages) in length.<sup>1</sup>

#### Memo 1

- I have posted the Staton and Linzer judicial independence data. Do the following: (1) compute the mean, median, and range of judicial independence in 1980, 1990, 2000, and 2010. What do you

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<sup>1</sup> Some of these assignments are adapted from John Kastellec's syllabus.

conclude about trends in judicial independence over time? (2) Graph the measure of judicial independence for the U.S., Argentina, Germany, and Bolivia. Write a paragraph interpreting the plot.

### **Memo 2**

- First Year and Undergraduate Students: I have posted the search-and-seizure data analyzed in Segal (1984) on Blackboard. The data has been updated. Replicate the probit estimates in Table 1.
- Second Year and Third Year Students: I have posted the search-and-seizure data analyzed in Segal (1984) on Blackboard. The data has been updated. Conduct a “rolling analysis” over the time period 1962-1999. Take the first 15 years of the data (1962-1976). Run Segal’s model and save the coefficients. Then add 1 year to each end of the window--i.e. 1963-1977. Again, save the coefficients. Keep adding one year to each end of the window, until you reach 1984-1998. Analyze the change in both model performance over time, and the change in the individual case fact coefficients over time. What do these changes tell you both about the evolution of the Supreme Court’s search-and-seizure doctrine in this period and about the usefulness of fact-pattern analysis?

### **Memo 3**

- First Year and Undergraduate Students: Download the Martin-Quinn scores and the Segal-Cover scores. Make a scatterplot and report the correlation of the Martin-Quinn Score and the Segal-Cover scores in (a) the justices’ first term on the Court and (b) the justices’ last term (or most recent term) on the Court. What does this correlation suggest about the dynamics of judicial ideology?
- Second Year and Third Year Students: Download the Supreme Court Database (Justice-centered/docket-level) and the Martin-Quinn scores. For each justice in each term, calculate the percent of liberal votes across all cases. Then calculate the correlation of this measure with each justice's justice's MQ score in each term. Make a graph showing the correlation. What does this correlation say, if anything, about the MQ scores and how we should interpret them?

### **Memo 4**

- I have created a form that replicates the coding instructions for the Supreme Court Database. Code the Supreme Court’s decisions in *Obergefell v. Hodges* and *Masterpiece Cakeshop*. Write a 2-3 page memo describing your coding experience and the choices you made.

MIDTERM EXAM (15%). I will e-mail you a blinded unpublished manuscript on a topic relating to law and courts and policy. You may not discuss the manuscript with your peers but may use external (e.g. internet) resources for additional information as needed as you craft a 2-3 page (single-spaced) review of the book appropriate for the *Journal of Law and Courts*.

FINAL EXAM (15%). Students will take a final exam that mirrors in its design a portion of the comprehensive exam in American Politics. I will distribute two questions to you; you will have four hours to answer one of the two questions. Each question will ask you to synthesize the literature and our class discussions to answer a broad question about law and courts.

Comprehensive exam answers can be deceptively hard. Here are some tips to tackle these:

- Your goal, first and foremost, on any comprehensive exam answer is to make a convincing case that you know the literature in American politics and can synthesize it into something coherent. You do this in three ways: by citing the appropriate literature, by summarizing it correctly, and by telling us a story about how that literature fits together (e.g. how it has developed over time). By nature, a comprehensive exam asks you to synthesize the literature.

- Your second goal on most comprehensive exam questions is to craft and defend a clear argument. Weak comprehensive exam answers read like undergraduate literature reviews: each paragraph discusses a new source and there is little conversation among the sources until a final paragraph. Great comprehensive exam answers employ the literature to support and defend an argument, using it as evidence to bolster their thesis.
- The best way that you meet these two goals is to spend the first portion of your time with any answer making an outline. If you don't know what evidence you have, you can't figure out what claim to make, and if you don't start writing with a clear claim/thesis, you are going to have problems with the organization of the essay (see: undergraduate literature review). Clear organization is extremely important; if your reader cannot follow the argument you are making, you're in trouble. Subheadings can be really helpful.

RESEARCH PROJECT (40% Total). This course culminates with the production of an original research project. You may choose any topic in law and courts that interests you, though my hope is that this project will help you start to think about the sort of research projects that will interest you as you progress through graduate school. To help you finish the project on schedule, you will complete it in stages. You may choose to complete: (a) a research design, (b) a research paper, or (c) a reanalysis.

- Research Design. A research design is a well-thought-out plan that “sells” your research question as an essential one, explains why that original question is motivated by the extant research, clearly explains the testable, falsifiable hypotheses you hope to examine, and explains the data with which you plan to test those hypotheses, including both the data collection and analysis stages of the process. Basically, you should think about this as a highly detailed overview of a research project that likely lacks the empirical analysis that would enable one to actually test the proposed theory (though some preliminary data analysis, if available, may be useful as proof of concept).
- Research Paper. A research paper moves beyond a design by providing a test of a theoretical argument. A strong manuscript would have all of the core components of a paper that could form the basis of a MA thesis, conference paper, or dissertation chapter.
- Renanalysis Paper. A reanalysis paper *replicates* and *reanalyzes* an existing published finding. Your research paper should *not* simply reproduce the table of results and figures included in the article you select. You will conduct a thorough *reanalysis* of the paper by embracing the authors' theory and hypotheses but writing your own code to analyze the data and fit the model(s) presented in the article. Be careful! Anyone can find “reasonable” ways of changing someone else's models so that coefficient estimates change. That is not the objective of this assignment. The goal of this research paper is for you to grasp the complete research process by focusing on characteristics of the data, the most appropriate quantitative method for establishing a clear connection between theory and empirics, hypothesis testing, and the substantive interpretation and visualization of the results.

Regardless of your assignment choice, you will complete the following assignments. I will include my assessment of your checkpoints (including their quality and timeliness) in my evaluation of your final manuscript.

- Checkpoint #1: Research Proposal Meeting. You must meet with me at least three times over the course of your semester (September, October, and November) to discuss your project. Before the September meeting, please send me a 2-page document that outlines 2-3 proposed topics. During this meeting, we will discuss proposed topics and which assignment is the best fit for your stage in the

program, substantive interests, and career goals. For those students interested in a Renanalysis Paper, indicate whether you have obtained the author's original data.

- Checkpoint #2: Annotated Bibliography. The bibliography should cover 8 individual works that are not part of the assigned reading list for the course. You will provide an introduction (approximately 1000 words) defining the topic, why it is important, summarizing the general state of the literature, and tying the literature to the project you intend to pursue. Then, summarize each of the individual works in paragraphs of about 250 words each. Your summaries should identify the research question, the author's theoretical argument, the evidence that supports (or rebuts) the argument, and the conclusion drawn by the author.
- Checkpoint #3: Data Report. Each student will write a report on data that they would (or will) use to test their theory. The report should be 3-5 pages long and discuss the availability of data, how key concepts in the theory would be measured, and the reliability and validity of those measurements (or how reliability and validity would be assessed). For those students writing a research paper or a reanalysis paper, your Data Report should contain some data analysis.
- Checkpoint #4: Peer Review. You will circulate a draft of your paper to two of your colleagues (selected by me). You will read and comment on the drafts of the two colleagues and provide them with constructive critiques of their argument, research design, and (if applicable) data analysis. You may comment on mechanical (e.g. grammatical) errors, but those should not be the focus of your commentary. You will summarize your comments in a memorandum (about 2 double-spaced pages) that you will submit to (a) the colleagues whose papers you reviewed and (b) to Prof. Nelson.
- Final Paper and Response Memo: On the (extended) final day of class, you will present your paper to your peers. By the Tuesday of finals week, submit your final, revised manuscript—along with a memo responding to your classmates' critiques—on Canvas. Most completed manuscripts will be about 25 double-spaced pages (though concision is always appropriate).

**PARTICIPATION (10%).** This is a graduate seminar. It is your collective job to carry the majority of our class discussion. The final portion of your grade is based on your ability and willingness to contribute to our class. Everyone's experience in this course is enhanced by regular attendance and active participation; conversely, everyone's experience suffers if individuals do not participate. Remember that a sincere question often adds as much (if not more) to our understanding of the course material as an explanation of the week's readings. So, don't be afraid to speak up!

Please remember that attending class and sitting silently is not, by definition, "participation." Also, please note that I do not penalize you directly for missing class (though multiple absences will adversely affect your grade through a lower participation score).

### **EXPECTATIONS/PROCEDURES**

**RESPECT.** In this course, we are all engaged in the endeavor of building a stronger understanding of American politics. Everyone comes to this course with a different background in the subject (particularly with respect to the technical aspects of the readings). It is important that we all treat each other with the utmost respect.

Criticism. This is a seminar and, as such, it is our job to be critics. As you read for class, you should examine the goals of an article, the persuasiveness of the evidence it presents in support of its theory, and the place it makes for itself in the literature. Remember that a harsh critique isn't the same thing as an intellectually rigorous one. Focus less on what you perceive to be flaws and more on what you could learn from the article. Oftentimes, it is more difficult to point out what is "good" than what is "bad". In other words, treat our authors the way you would like to be treated by students in your shoes in 20 years.

OFFICE HOURS. I have office hours, listed at the beginning of the syllabus. My door is usually open, and you shouldn't hesitate to stop by outside of my scheduled office hour times.

LATE ASSIGNMENTS. Assignments not submitted by the assigned due date and time are late and will be penalized by a 5% per day deduction. This is a graduate class, so I expect you to communicate with me about things that affect your ability to get an assignment in on time. All assignments must be completed to complete this course.

EXTENSIONS. Extensions will be granted in only the most severe circumstances. If you foresee the need for an extension, one needs to be requested and granted at least 24 hours before the due date. No one is entitled to an extension; they will be offered only at my discretion.

ACADEMIC DISHONESTY. I take violations of the University's academic dishonesty policy—reprinted below—very seriously. Please review the policy and let me know if you have any questions.

GRADING SCALE. The course will follow a standard grading scale:

93-100	A	80-82	B-
90-92	A-	77-79	C+
87-89	B+	70-76	C
83-86	B	60-69	D

A NOTE ON GRADES. I do not *give* grades. You *earn* grades. It is essential that you are proactive regarding your performance in this course; *do not wait* until grades are posted and then ask how your grade could be improved. At that point, barring a mathematical error on my part, it cannot be. If, at any point, you are unsure of your current standing in the course, please come to my office hours.

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 at: <http://www.la.psu.edu/current-students/student-services/academic-integrity/academic-integrity>

NOTE TO STUDENTS WITH DISABILITIES. Penn State welcomes students with disabilities into the University's educational programs. Every Penn State campus has an office for students with disabilities. The Student Disability Resources Web site provides [contact information for every Penn State campus](#). For further information, please visit the [Student Disability Resources Web site](#).

In order to receive consideration for reasonable accommodations, you must contact the appropriate disability services office at the campus where you are officially enrolled, [participate in an intake interview, and provide documentation](#). If the documentation supports your request for reasonable accommodations, your [campus's disability services office](#) will provide you with an accommodation letter. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. You must follow this process for every semester that you request accommodations.

COUNSELING AND PSYCHOLOGICAL SERVICES. Many students at Penn State face personal challenges or have psychological needs that may interfere with their academic progress, social development, or emotional wellbeing. The university offers a variety of confidential services to help you through difficult times, including individual and group counseling, crisis intervention, consultations, online chats, and mental health screenings. These services are provided by staff who welcome all students and embrace a philosophy respectful of clients' cultural and religious backgrounds, and sensitive to differences in race, ability, gender identity and sexual orientation.

[Counseling and Psychological Services at University Park \(CAPS\)](#): 814-863-0395

Penn State Crisis Line (24 hours/7 days/week): 877-229-6400

Crisis Text Line (24 hours/7 days/week): Text LIONS to 741741

EDUCATIONAL EQUITY AND REPORTING BIAS INCIDENTS. State takes great pride to foster a diverse and inclusive environment for students, faculty, and staff. Acts of intolerance, discrimination, or harassment due to age, ancestry, color, disability, gender, gender identity, national origin, race, religious belief, sexual orientation, or veteran status are not tolerated and can be reported through Educational Equity via the [Report Bias webpage](#). You may also contact one of the following offices:

University Police Services, University Park: 814-863-1111

Multicultural Resource Center, Diversity Advocate for Students: 814-865-1773

Office of the Vice Provost for Educational Equity: 814-865-5906

Office of the Vice President for Student Affairs: 814-865-0909

Affirmative Action Office: 814-863-0471

Call 911 in cases where physical injury has occurred or is imminent.

EXTENDED ABSENCES. During your enrollment at Penn State, unforeseen challenges may arise. If you ever need to miss an extended amount of class in such a circumstance, please notify your professor so you can determine the best course of action to make up missed work. If your situation rises to a level of difficulty you cannot manage on your own with faculty support, reach out to the Student Care & Advocacy office by phone at [\(814-863-2020\)](tel:814-863-2020) or email them at [StudentCare@psu.edu](mailto:StudentCare@psu.edu). Office hours are Monday-Friday, 8 a.m. to 5 p.m.

## SCHEDULE

Below, you'll find a list of all class meetings, the topic we'll discuss, and the reading assignment. You should complete the reading assignment before you come to class and bring any questions that you have with you to our class meetings. In the event that deviations from this schedule are necessary, they will be announced in class.

### Part I: Key Concepts

#### Why Study Courts? (Aug. 21)

*Read these carefully to prepare for discussion:*

Shapiro, Martin. 1981. *Courts*. Ch.1, "The Prototype of Courts."

Tate, C. Neal and Torbjorn Vallinder (eds.). 1995. *The Global Expansion of Judicial Power*. New York: NYU Press. Chapters 1-3.

*Skim these as background material for the development of the academic study of law and courts:*

Whittington, Keith E., R. Daniel Kelemen, and Gregory A. Caldeira. 2008. "The Study of Law and Politics." *The Oxford Handbook of Law and Politics*.

Epstein, Lee. 2016. "Some Thoughts on the Study of Judicial Behavior." *William & Mary Law Review* 57: 2017-2073

Krewson, Christopher N. and Ryan J. Owens. 2018. "Historical Development of Supreme Court Research." *Routledge Handbook of Judicial Behavior*.

Kapiszewski, Diana & Matthew M. Taylor. 2008. "Doing Courts Justice? Studying Judicial Politics in Latin America." *Perspectives on Politics*. 6(4): 741-768.

#### Constitutions and Rights (Aug. 28)

Carey, John. 2000. "Parchment, Equilibria, and Institutions." *Comparative Political Studies* 33(6/7):735-761.

North, Douglas C., and Barry R. Weingast. 1989. "Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth Century England." *Journal of Economic History* 49: 803-832.

Charles R. Epp. 1996. "Do Bills of Rights Matter? The Canadian Charter of Rights and Freedoms." *American Political Science Review* 90:765-779.

Chilton, Adam and Mila Versteeg. 2016. "Do Constitutional Rights Make a Difference?" *American Journal of Political Science* 60(3): 575-589.

Versteeg, Mila and Emily Zackin. 2017. "Constitutions Un-Entrenched: Toward an Alternative Theory of Constitutional Design." *American Political Science Review* 110: 567-674.

## **Judicial Independence and Judicial Review (Sept. 4)**

### Memo 1 Due

#### *Judicial Independence*

- Landes, William, and Richard Posner. 1975. "The Independent Judiciary in an Interest Group Perspective." *Journal of Law and Economics* 18:875-901.
- Ramseyer, J. Mark, and Eric B. Rasmusen. 2001. "Why are Japanese Judges so Conservative in Politically Charged Cases?" *American Political Science Review* 95(June):331-344.
- Linzer, D. and J.K. Staton. 2015. "A Global Measure of Judicial Independence, 1948-2012." *Journal of Law and Courts* 3 (2): 223-256.

#### *Judicial Review*

- Stone Sweet, Alec. 2008. "Constitutions and Judicial Power." in *Comparative Politics* Caramani, ed.
- Graber, Mark. 1993. "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary," *Studies in Am. Political Development* 7: 35-73.
- Ginsburg, Thomas. 2003. *Judicial Review in New Democracies*. Cambridge University Press, Ch. 1-2

## **Public Support for Legal Institutions (Sept. 11)**

- Gibson, James L., Gregory A. Caldeira, and Vanessa A. Baird. 1998. "On the Legitimacy of National High Courts." *American Political Science Review* 92:343-58.
- Bartels, Brandon L., and Christopher D. Johnston. 2013. "On the Ideological Foundations of Supreme Court Legitimacy in the American Public." *American Journal of Political Science* 57: 184-99.
- Gibson, James L. and Michael J. Nelson. 2015. "Is the U.S. Supreme Court's Legitimacy Grounded in Performance Satisfaction and Ideology?" *American Journal of Political Science* 59: 162-74.
- Tyler Tom R., Jeffrey Fagan, and Amanda Geller. 2014. "Street Stops and Police Legitimacy: Teachable Moments in Young Urban Men's Legal Socialization." *Journal of Empirical Legal Studies* 11(4): 751-785.
- Gibson, James L. 2002. "Truth, Justice, and Reconciliation: Judging the Fairness of Amnesty in South Africa." *American Journal of Political Science* 46(3): 540-56.
- Baird, Vanessa A. 2001. "Building Institutional Legitimacy: The Role of Procedural Justice." *Political Research Quarterly* 54(2): 333-354.

## **Part II: Judicial Decisionmaking**

### **(When) Does Law Matter? (Sept. 18)**

#### Memo 2 Due

- Fuller, Lon. 1949. "The Case of the Speluncean Explorers." *Harvard Law Review* 62: 616-645. [You will be assigned one opinion to read].
- Segal, Jeffrey. 1984. "Predicting Supreme Court Decisions Probabilistically: The Search and Seizure Cases." *American Political Science Review* 78(December): 891-900.
- Braman, Eileen, and Thomas E. Nelson. 2007. "Mechanism of Motivated Reasoning? Analogical Perception in Discrimination Disputes." *American Journal of Political Science* 51 (October): 940-956.
- Bartels, Brandon L. 2009. "The Constraining Capacity of Legal Doctrine on the Supreme Court." *American Political Science Review* 103(3):474-95.
- Xun Pang, Barry Friedman, Andrew D. Martin, and Kevin M. Quinn. 2012. "Endogenous Jurisprudential Regimes." *Political Analysis*. 20: 417-436.
- Hinkle, Rachael K. 2015. "Legal Constraint in the U.S. Courts of Appeals" *Journal of Politics* 77: 721-735.
- Cameron, Charles and Lewis Kornhauser. 2017. "What Courts Do... And How to Model It." Working Paper.



## **The Identity of the Judge: Background and Selection (Sept. 25)**

### Annotated Bibliography Due

#### *Identity and Background*

- Tate, C. Neal. 1981. "Personal Attribute Models of the Voting Behavior of U.S. Supreme Court Justices: Liberalism in Civil Liberties and Economics Decisions, 1946-1978." *American Political Science Review* 75(2): 355-367.
- Boyd, Christina L., Lee Epstein & Andrew D. Martin. 2010. "Untangling the Causal Effect of Sex on Judging." *American Journal of Political Science* 54: 389-411.
- Grossman, G, Gazal-Ayal O, Pimentel S, Weinstein J. 2016. "Descriptive Representation and Judicial Outcomes in Multi-Ethnic Societies." *American Journal of Political Science* 60(1):44-69.

#### *Judicial Selection*

- Cameron, Charles M., Jonathan P. Kastellec, and Jee-Kwang Park. 2013. "Voting for Justices: Change and Continuity in Confirmation Voting 1937-2010." *Journal of Politics* 75 (2): 283-299.
- Cameron, Charles M. and Jonathan Kastellec. 2016. "Are Supreme Court Nominations a Move-the-Median Game?" *American Political Science Review* 110(4): 778-97
- Hall, Melinda Gann. 1987. "Constituent Influence in State Supreme Courts: Conceptual Notes and a Case Study." *Journal of Politics* 49(4): 1117-1124.

## **The Identity of the Judge: Attitudes and Preferences (Oct. 2)**

### Memo 3 Due

#### *The Attitudinal Model*

- George, Tracey E., and Lee Epstein. 1992. "On the Nature of Supreme Court Decision Making." *American Political Science Review* 86:323-337.
- Bailey, Michael A., and Forrest Maltzman. 2008. "Does Legal Doctrine Matter? Unpacking Law and Policy Preferences on the U.S. Supreme Court." *American Political Science Review* 102 (3): 369-84.
- Zorn, Christopher and Jennifer Barnes Bowie. "Ideological Influences on Decision Making in the Federal Judicial Hierarchy: An Empirical Assessment." *Journal of Politics* 72: 1212-1221.
- Baum, Lawrence. 2017. *Ideology on the U.S. Supreme Court*. Selections TBD.

#### *Measuring Judicial Preferences*

- Martin, Andrew D., Kevin Quinn, and Lee Epstein. 2005. "The Median Justice on the U.S. Supreme Court." *North Carolina Law Review* 83: 1275-1322.
- Bailey, Michael A. 2018. "Measuring Ideology on the Courts" *Routledge Handbook of Judicial Behavior*.

## **Strategy: Between-Judge Relationships (Oct. 9)**

### Midterm "Exam" Due

#### *Bargaining and Accommodation*

- Maltzman, Forrest, James F. Spriggs, II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game*. New York: Cambridge University Press.
- Clifford J. Carrubba, Barry Friedman, Andrew D. Martin, and Georg Vanberg. 2012. "Who Controls the Content of Supreme Court Opinions?" *American Journal of Political Science*. 56: 400-412.
- Hausegger, Lori, and Stacia Haynie. 2003. "Judicial Decisionmaking and the Use of Panels in the Canadian Supreme Court and the South African Appellate Division." *Law and Society Review* 37:635-57.

### *Writing Separately*

- Hazelton, Morgan L.W., Rachael K. Hinkle, and Michael J. Nelson. 2018. "The Elevator Effect: Collegiality and Consensus in Judicial Decisionmaking." *Working Paper*.
- Hettinger, Virginia, Stefanie A. Lindquist, and Wendy L. Martinek. 2004. "Comparing Attitudinal and Strategic Accounts of Dissenting Behavior on the U.S. Courts of Appeals." *American Journal of Political Science* 48(January):123-137.
- Hall, Melinda Gann. 1987. "Constituent Influence in State Supreme Courts: Conceptual Notes and a Case Study." *Journal of Politics* 49: 1114–21.

### **Strategy: Between-Court Relationships (Oct. 16)**

#### Memo 4 Due

#### *Intercourt Relationships*

- Songer, Donald R., Jeffrey A. Segal, and Charles M. Cameron. 1994. "The Hierarchy of Justice: Testing a Principal-Agent Model of Supreme Court-Circuit Court Interactions." *American Journal of Political Science* 38(August) :673-696.
- Beim, Deborah, Alexander V. Hirsch, and Jonathan P. Kastellec. 2014. "Whistleblowing and Compliance in the Judicial Hierarchy." *American Journal of Political Science* 58: 904-918.

#### *Trial Court Decision Making*

- Christina L. Boyd. 2015. "The Hierarchical Influence of Courts of Appeals on District Courts." *Journal of Legal Studies* 44(1): 113-131.
- Pérez-Liñán, Anibal, Barry Ames, and Mitchell A. Seligson. 2006. "Strategy, Careers, and Judicial Decisions: Lessons from the Bolivian Courts." *Journal of Politics* 68(2): 284-295.
- Judith Resnik. 1982. "Managerial Judges." *Harvard Law Review*. 96: 374-448.

### **Strategy: Between-Branch Relationships (Oct. 23)**

#### *In the United States*

- Eskridge, William. 1991. "Reneging on History? Playing the Court/Congress/President Civil Rights Game." *California Law Review* 79: 613-684.
- Clark, Tom S. 2009. "The Separation of Powers, Court Curbing, and Judicial Legitimacy." *American Journal of Political Science* 53 (October): 971-989.

#### *In Comparative Perspective*

- Helmke, Gretchen. 2002. "The Logic of Strategic Defection: Court-Executive Relations in Argentina under Dictatorship and Democracy." *American Political Science Review* 96: 305-20.
- Matias Iaryczower, Pablo T. Spiller, and Mariano Tommasi. 2002. "Judicial Independence in Unstable Environments, Argentina 1935-1998." *American Journal of Political Science* 46:699-716.
- Vanberg, Georg. 2000. "Establishing Judicial Independence in West Germany: The Impact of Opinion Leadership and the Separation of Powers." *Comparative Politics* 32(April): 333-353.
- Carrubba, Clifford J., Matthew Gabel, and Charles Hankla. 2008. "Judicial Behavior under Political Constraints: Evidence from the European Court of Justice." *American Political Science Review* 102(4): 435-452.

## **Strategy: The Public and Public Opinion (Oct. 30)**

### Data Report Due

#### *The Public's Effects on Judicial Decisions*

Dahl, Robert A. 1957. "Decision-Making in a Democracy: The Supreme Court as National Policy-Maker." *Journal of Public Law* 6(Fall): 279-295.

Epstein, Lee & Andrew D. Martin. 2010. "Does Public Opinion Influence the Supreme Court? Possibly Yes (But We're Not Sure Why)." *University of Pennsylvania Journal of Constitutional Law* 13: 263-281.

#### *The Effects of Judicial Decisions on the Public*

Franklin, Charles H., and Liane C. Kosaki. 1989. "Republican School-Master: The U.S. Supreme Court, Public Opinion, and Abortion." *American Political Science Review* 83: 751-71.

Ura, Joseph Daniel. 2014. "Backlash and Legitimation: Macro Political Responses to Supreme Court Decisions." *American Journal of Political Science* 58(1): 110-126.

Staton, Jeffrey K. 2006. "Constitutional Review and the Selective Promotion of Case Results." *American Journal of Political Science* 50 (January): 98-112.

Krehbiel, Jay N. 2016. "The Politics of Judicial Procedures: The Role of Public Oral Hearings in the German Constitutional Court." *American Journal of Political Science* 60(4) 990-1005.

## **Part III: Courts and Policy Change**

### **Lawyers and Litigants (Nov. 6)**

#### *Lawyering*

Black, Ryan C. and Ryan J. Owens. 2013. "A Built-In Advantage: The Office of the Solicitor General and the Supreme Court." *Political Research Quarterly* 66(2): 451-463

Johnson, Timothy R., Paul J. Wahlbeck, and James F. Spriggs II. 2006. "The Influence of Oral Arguments on the U.S. Supreme Court." *American Political Science Review* 100(February): 99-113.

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#### *"Haves" and "Have-Nots"*

Galanter, Marc. 1974. "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change." *Law and Society* 9(1): 95-160.

Brace, Paul, and Melinda Gann Hall. 2001. "'Haves' Versus 'Have Nots' in State Supreme Courts: Allocating Docket Space and Wins in Power Asymmetric Cases." *Law and Society Review* 35 (2): 393-417.

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### **Agenda Setting and Implementation (Nov. 13)**

#### Circulate Paper for Peer Review

#### *Agenda Setting*

Priest, George L., and Benjamin Klein. 1984. "The Selection of Disputes for Litigation." *Journal of Legal Studies* 13(January): 1-55.

Caldeira, Gregory A., and John R. Wright. 1988. "Organized Interests and Agenda Setting in the U.S. Supreme Court." *American Political Science Review* 82(December): 1109-1127.

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### *Compliance*

- McGuire, Kevin T. 2009. "Public Schools, Religious Establishments, and the U.S. Supreme Court: An Examination of Policy Compliance." *American Politics Research* 37:50-74.
- Kapiszewski, Diana, and Matthew M. Taylor. 2013. "Compliance: Conceptualizing, Measuring, and Explaining Adherence to Judicial Rulings." *Law and Social Inquiry* 38 (4): 803–35.
- Guari, Varun, Jeffrey K. Staton, and Jorge Vargas Cullell. 2015. "The Costa Rican Supreme Court's Compliance Monitoring System." *Journal of Politics* 77(3): 774-786.

Peer Review via Canvas and e-mail to the paper's author at November 25 at 11:59PM

### **Courts and Policy (Nov. 27)**

#### *Policy Change*

- Rosenberg, Gerald. 2006. "The Hollow Hope: Can Courts Generate Social Change?" In *Courts, Judges, and Politics*, ed. Walter F. Murphy, C. Herman Pritchett, Lee Epstein, and Jack Knight. Boston: McGraw Hill.
- Kreis, Anthony M. 2018. "Stages of Constitutional Grief: Democratic Constitutionalism and the Marriage Revolution." *University of Pennsylvania Journal of Constitutional Law* 20 Forthcoming.
- Hirschl, Ran. 2000. "The Political Origins of Judicial Empowerment Through Constitutionalization: Lessons from Four Constitutional Revolutions." *Law and Social Inquiry* 25:91-147.
- Helfer, Laurence R. and Erik Voeten. 2014. International Courts as Agents of Legal Change: Evidence from LGBT Rights in Europe. *International Organization* 48: 77-110.

#### *Legal Change*

- Canon, Bradley C. and Lawrence Baum. 1981. "Patterns of Adoption of Tort Law Innovations: An Application of Diffusion Theory to Judicial Doctrines." *American Political Science Review* 75(4): 975-987.
- Klein, David E. *Making Law in the United States Courts of Appeals*. Cambridge University Press. New York., chs. 2, 4.

### **Paper Presentations (Dec. 4)**

**Final Paper and Final Exam due during Finals Week**