POLI 4023: Judicial Politics – Fall 2012

Professor Laura Moyer
Classroom: 134 Howe Russell
Class: MWF 10:30-11:20

Office: 208B Stubbs Hall
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Course Description and Objectives
Pre-requisite: POLI 2051 or equivalent
In this class, we will explore many aspects of the American legal system, including both the formal and informal structures and institutions involved in the resolution of conflicts through the courts. Specifically, this course is designed to introduce students to social scientific approaches used to evaluate the role of federal and state courts as political institutions and policy makers. At the end of the course, students should be able to understand the topics and concepts related to judicial processes, to pose interesting normative, empirical, and conceptual questions about these issues, and to design research projects to answer these questions.

*Note: The syllabus represents a general plan for the course and may be subject to change, based on the discretion of the instructor.

Requirements for the Course

Attendance
While no grade will be assigned for attendance alone, failing to attend class regularly will undermine your ability to succeed in the class. Special consideration for students who miss class on a day when graded work is due is limited ONLY to students with documented, excused absences. University policy states that excused absences (1) include personal illness (with a doctor’s note), family emergencies, death in the immediate family, military service, religious holiday, or participation in a school-sponsored event (athletes, band members, debate club) AND (2) that these excuses must be accompanied by written notice from the student to the instructor in a timely fashion. Students must alert their instructor in advance if missing class for a documented, school-sponsored event or because of a religious holiday; in the event of a family emergency or personal illness, notification by email must occur on the day of the missed class unless physically impossible.

Participation: in-class discussion and writing
Attendance is a necessary, but not sufficient, condition for a good participation grade. Students are expected to attend class on time and for the duration of the class, read all assigned materials before class, complete all written assignments on time, and treat other students and the instructor with respect (including on Moodle). Please turn off phones and put away iPods, newspapers and other unrelated materials before class begins. NO LAPTOPS are allowed, unless they are required by Disability Services.

In-class discussion will be worth a maximum of 3 points, and in-class writing will be worth a maximum of 7 points. To earn all of points for participation, students must be outstanding and consistent in their ability to examine the implications of assigned readings, make connections across readings, pose alternative hypotheses, and analyze alternative explanations; they must also be conscientious, responsible, and respectful.

Exams
In-class discussions and the readings listed on the class schedule will serve as the basis for your exams. There will be two mid-term exams and a final exam to test your understanding of concepts as well as your ability to apply and analyze them. Students are expected to be present on all testing days.
Students who miss either of the mid-term exams for any reason will simply be given an alternative final exam that includes the missed material. It is the student’s responsibility to alert the instructor via email by November 30 that he or she will need an alternative final exam. Make-ups for the final exam are totally at the discretion of the instructor and will be only for those absences necessitated by a documented and legitimate emergency as governed by university policy.

Research Analysis Write-Up
A major component of the course will be a 10-page (Times New Roman, double-spaced, one inch margins) empirical research paper. You will choose from a list of research questions posted on Moodle. In the paper, you will (1) identify an interesting empirical research question, (2) summarize the findings of relevant academic research on your question (from a list of approved academic journals), and (3) analyze the trends and gaps in the existing research. [More specific guidance is provided on Moodle.]

You must have a proposal for your paper approved by me before proceeding with your research; failure to do so will result in a ONE LETTER GRADE deduction on your final paper. Your proposal will consist of a single-spaced, one-page abstract that includes (a) the empirical research question you have selected, (b) justification for why your question or puzzle is important, (c) a preliminary list of 3 journal articles (from the approved journal list) that address your question. A hard copy of the proposal is due in class on Monday September 17. A rough draft is due in hard copy on November 16 for peer review. Failure to bring in a rough draft for peer review will result in a ONE LETTER GRADE deduction on the paper. The final version is due in hard copy no later than NOON on Wednesday, November 21 (the day before Thanksgiving break). Turn the paper in to my mailbox in 240 Stubbs. Papers may be turned in earlier, but papers that miss the deadline will be subject to letter grade penalties.

Reading quizzes
There will also be daily quizzes on the assigned reading and the lecture, which will be given at some point during class. (Coming in after the quiz has begun constitutes a missed quiz, so be on time!) You will be allowed two missed quizzes without penalty, but subsequent missed quizzes will result in a grade of zero, unless the missed quiz is because of a university-excused absence. (University-excused absences - death in the family, family emergency, illness, participation in university-approved events - must be documented and communicated to the instructor by the day of the absence.) There will be no make-up quizzes. However, quizzes missed because of excused absences will not count against the total.

Special Accommodation
*Graduate students, students wishing to receive honors credit, and students with documented disabilities who require special testing accommodations: please notify me privately at the beginning of the semester.

Academic Honesty
Every student is expected to be familiar with and abide by the University’s policy on academic honesty before performing any academic work. You can find these and the consequences for committing academic dishonesty at http://saa.lsu.edu. Examples of academic dishonesty described in the Code include, but are not limited to cheating on tests, plagiarizing written work from any source (including Wikipedia and your friends), selling or buying academic assignments, writing a single paper for multiple classes, collaborating on an assignment without the instructor’s permission, and helping another student do any of these things. All suspected violations will be reported, and determinations of guilt or innocence will be made by the Office of Student Accountability.
Grade Breakdown & Grading Policy (100 points total)

In-class discussion & writing: 10 points
Reading quizzes: 15 points
Examination 1: 20 points
Examination 2: 20 points
Research analysis: 15 points
Final exam: 20 points

The course is on a 100-point scale. There is no extra credit available for any student. Borderline final grades (defined as less than 1 point away from the next letter grade) will be decided based on the quality of participation. Grades will NOT be discussed over email, for confidentiality reasons; please make an appointment with me if you have a question. Written assignments are due at the beginning of class, in hard copy form; work submitted later will be subject to grade penalties.

A (90.0 & above)  D (60.0-69.9)
B (80.0-89.9)     F (59.9 & below)
C (70.0-79.9)

Required texts
- O’Brien, Judges on Judging, 3rd ed. [Denoted as JOJ on schedule]
- Carp, Stidham, and Manning, 8th ed. Judicial Process in America. [Denoted as CSM on schedule]
- Additional readings posted on Moodle [Denoted as M on schedule]

Fall 2011: Important dates
- Drop period ends: Last day to add: Aug. 28/August 29
- Last day to withdraw: Nov. 2
- Final exam: Monday, Dec. 3 (7:30 a.m. – 9:30 a.m.)

Schedule of Readings and Assignments (to be read PRIOR to coming to class)

Mon., Aug. 20  Introduction to course
Wed., Aug. 22  I. Foundations of Law and the American judicial system
               Chapter 1, “Foundations of Law” in CSM (pp. 1-22)
Fri., Aug. 24  “Legal Systems” (on M)
Mon., Aug. 27  Rehnquist, “The Notion of a Living Constitution” in JOJ (pp. 152-161)
               Marshall, “The Constitution as a Living Document” in JOJ (pp. 207-211)
Wed., Aug. 29  Scalia, “Originalism: the Lesser Evil” in JOJ (pp. 198-205)
               Posner, “What am I: A Potted Plant?” in JOJ (pp. 193-197)
               Breyer, “Our Democratic Constitution” in JOJ (pp. 231-244)
Fri., Aug. 31  Chapter 2, “The Federal Judicial System” in CSM (pp. 25-50)
               Article III of the Constitution, in CSM pp. 435-6
Mon., Sept. 3  NO CLASS: LABOR DAY
Wed., Sept. 5  Chapter 3, “State Judicial Systems” in CSM (pp. 53-72)
Fri., Sept. 7  Chapter 4, “Jurisdiction & Policy Making Boundaries” in CSM (pp. 75-96)
               Roe v. Wade compared with DeFunis v. Odegaard on M
II. Judicial selection in federal and state courts
Chapter 5, “State Judges’ in CSM (pp. 100-112)
Compare LA to two other states at http://www.judicialselection.us/

Wed., Sept. 12
Republican Party of Minnesota v. White (2002) on M
“Judicial Campaign Codes after Republican Party of Minnesota v. White”
on M (pp. 202-233)

Fri., Sept. 14
“In Defense of Judicial Elections” on M

Mon., Sept. 17
In-class: Caperton v. Massey

**Paper proposal DUE** (hand in hard copy at beginning of class)

Wed., Sept. 19
Chapter 6, “Federal Judges” in CSM (pp. 115-151)
U.S. Constitution, Article II, section 2, and Article III, section 1 (in CSM pp. 433, 435)

Fri., Sept. 21
Chapter 7, “Policy Links Between the Citizenry, the President, and the Federal Judiciary” in CSM (pp. 156-178) [End of material for midterm]

Mon., Sept. 24
Catch up day/review for MID-TERM EXAM 1

Wed., Sept. 26
**MID-TERM EXAM 1**

Fri., Sept. 28
III. Litigants & Lawyers
Chapter 8, “Lawyers, Litigants, and Interest Groups” in CSM (pp. 181-203)

Mon., Oct. 1
Excerpts from Failing Law Schools on M
Law school and graduate school discussion

Wed., Oct. 3
Ordinary Injustice, excerpts from Ch. 1 (pp. 11-64)

Fri., Oct. 5
Ordinary Injustice, Ch. 3

Mon., Oct. 8
IV. Criminal and Civil Cases in Court
Chapter 9, “Crime & Procedures Prior to Criminal Trial” in CSM (pp. 206-235)

Wed., Oct. 10
“Under Suspicion: The Fugitive Science of Criminal Justice” on M
“The Capital Jury: Is it Tilted Toward Death?” on M

Fri., Oct. 12
Chapter 10, “The Criminal Trial and its Aftermath” in CSM (pp. 239-264)

Mon., Oct. 15
Excerpt from Chapter 11, “Civil Court Process” in CSM (pp. 279-287)
“Why the ‘Haves’ Come Out Ahead” on M

Wed., Oct. 17
“Java Jive” on M

Fri., Oct. 19
NO CLASS: FALL BREAK

Mon. Oct. 22
V. Judicial Decision Making: Trial Courts
Chapter 12, “Decision Making by Trial Court Judges” in CSM (pp. 290-329)
Judicial Decision Making: Appellate Courts
Chapter 13, “Decision Making in Collegial Courts” in CSM (pp. 336-367)
“A Sign of the Court’s Polarization: Choice of Clerks” on M

The Supreme Court
“Pardon the Interruption: Supreme Court Justices’ Behavior During Oral Arguments” on M

The Supreme Court (con’t)
“A Strategic Account of Judicial Decisions” on M
*In-class writing assignment: analyzing voting on the Supreme Court

The Supreme Court (con’t)
Conduct analysis before coming to class at:
http://scdb.wustl.edu/analysis.php. Bring analysis to class!
(*In-class writing assignment using your analysis)

VI. Implementation and Impact of Courts’ Decisions
Chapter 14, “Implementation and Impact of Judicial Policies” in CSM (pp. 374-395)

VI. Implementation and Impact of Courts’ Decisions
“Responses to Judicial Policies” on M
“The Supreme Court and Implementation of abortion” on M

VII. Courts, Media, and Public Opinion
“Understanding Public Confidence in American Courts” on M
“Should We Blame Judge Judy?” in S (pp. 480-485)

VI. Implementation and Impact of Courts’ Decisions
“Bait and Switch? The Press and the Pledge Case” on M
“The Supreme Court decided today…,” or did it?” on M

*BRING ROUGH DRAFT OF PAPER FOR PEER REVIEW*

VIII. Alternatives to Traditional Litigation
“Arbitration vs. Mediation—Explaining the Differences” (on M)
“Problem-Solving Courts” (on M)

**FINAL PAPER DUE IN MY MAILBOX BY NOON**
(Hard copy ONLY). Paper may be turned in earlier.

**NO CLASS: THANKSGIVING BREAK**

CASE STUDY: Affordable Care Act (ACA)
Oyez case brief (on M)
“Can the Supreme Court Survive a Healthcare Decision?” (on M)
Wed., Nov. 28  
**Media Coverage of the Ruling in the ACA case**
"How the Justices Ruled" (on M)
"We’re Getting Wildly Different Assessments" (on M)

Fri., Nov. 30  
Course wrap-up and review for final exam

Mon., Dec. 3  
**FINAL EXAM** (7:30 – 9:30 a.m.)