

POLS 5380 – COMPARATIVE COURTS

MWF: 9:30 – 10:20am in UGLC Rm 342

INSTRUCTOR: Dr. Rebecca Reid
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OFFICE: 307 Benedict Hall
OFFICE HOURS: MWF 10:30am-12:00pm, or by appointment

COURSE DESCRIPTION

This course provides an introduction to the major legal systems of the world and compares high courts cross-nationally. It will include the study of legal systems, courts, judicial process, judicial behavior, the rule of law, and the role of courts across political spectrums and regimes. This class is formatted as a seminar to enable students to explore and analyze judicial institutions and behavior cross-nationally through discussion and dialogue. Students will be expected to write a major, original research design paper on comparative courts in addition to several short papers evaluating the readings for each week.

LEARNING OUTCOMES

Over the course of the semester students will have:

- An understanding of the key elements of judicial institutions and legal systems cross-nationally as well as understand how institutions shape behavior of judges and the legal community.
- Become introduced to diverse perspectives of the rule of law.
- Become familiar with basic social science theories and be able to apply theoretical perspectives to explain political behavior and processes.
- Become familiar with peer-reviewed academic scholarship and legal studies.
- Developed the skills necessary to understand and evaluate contemporary problems as well will have learned to think critically about political issues and articulate arguments in oral and written forms.
- Created a design for the scientific study of a theoretically important problem related to courts.

REQUIRED READING

- Jacob, Herbert, Erhard Blankenburg, Herbert Kritzer, Doris Provine, and Joseph Sanders. 1996. *Courts, Law, & Politics in Comparative Perspective*. Yale University Press.
- Seider, Rachel, Line Schjolden, and Alan Angell. 2005. *The Judicialization of Politics in Latin America*. Palgrave McMillan.
- Tate, C. Neal and Torbjörn Vallinder. 1995. *The Global Expansion of Judicial Power*. New York: New York University Press.

- Stone Sweet, Alec. 2000. *Governing with Judges: Constitutional Politics in Europe*. NY: Oxford University Press.
- Epp, Charles 1998. *The Rights Revolution*. University of Chicago Press.
- Shapiro, Martin, and Alec Stone Sweet. 2002. *On Law, Politics and Judicialization*. New York: Oxford University Press.
- Shapiro, Martin. 1986. *Courts: A Comparative and Political Analysis*. University of Chicago Press.
- Ginsburg, Tom. 2003. *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*. Cambridge University Press.
- Kapiszewski, Diana, Gordon Silverstein, and Robert Kagan, eds. 2013. *Consequential Courts: Judicial Roles in Global Perspective*. Cambridge University Press.
- Ginsburg, Tom, and Tamir Moustafa. 2008. *Rule by Law: The Politics of Courts in Authoritarian Regimes*. Cambridge University Press.
- Russell, Peter H. and David M. O'Brien. 2001. *Judicial Independence in the Age of Democracy: Critical Perspectives from around the World*. University Press of Virginia.
- Helmke, Gretchen and Julio Ríos-Figueroa. 2011. *Courts in Latin America*. Cambridge University Press.
- Popova, Maria. 2012. *Politicized Justice in Emerging Democracies: Courts in Russia and Ukraine*. New York: Cambridge University Press.

RECOMMENDED READING

- Baum, Lawrence. 1997. *The Puzzle of Judicial Behavior*. Michigan Press.

COURSE REQUIREMENTS AND GRADING

Evaluation in this course will be based on the following components:

Attendance/Participation	15%
Short Paper (lowest grade)	10%
Short Paper	15%
Short Paper	15%
Short Paper	15%
Research Design Paper	30%

The grading scale is as follows:

90-100	A
80-89	B
70-79	C
60-69	D
59 and below	F

Short papers: Four times during the semester each student must turn in a short paper, 1-5 pages (typed, and turned in hard copy format at the beginning of class), evaluating the week's set of readings. These papers should not summarize the readings. Rather, these papers are designed to

identify the strengths and weaknesses of each of the readings and provide insight as to how these readings, as a whole, contribute to our understanding of courts cross-nationally. These papers should therefore explicitly discuss the limitations and contributions of each reading, identify what we know now (thanks to the readings), and suggest where we go from here. The assignments of these papers will be scheduled in class.

Research design paper: Students are required to submit an original research paper, 15-20 pages (typed and submitted in hard copy format), **due on the day of the final exam.** *There will be no final exam.* (Students may also turn in the papers earlier if desired.) This research design paper must identify a viable research design, in detail, to empirically examine some theoretically important research question dealing with comparative courts. Students are not required to carry out the research itself, although the paper must include an in-depth research plan. The research design must identify the research questions, explain its importance (answering why should we care), and develop a plan to carry out this research. It should discuss sample selection, data gathering, and appropriate analysis. **All topics must be cleared with the instructor prior to submission.** The writing process is iterative, requiring several rounds of revision. As such, students are recommended to submit their drafts throughout the semester to the instructor for feedback. Such drafts are welcome at any time except for the last week of school (prior to exam week). Please give the instructor sufficient time to read and provide comments to your drafts.

Participation: Throughout the semester I will take attendance. If you are absent, you will receive no attendance/participation points. I expect students to come to class prepared to intelligently discuss the material. In addition to seminar discussion, I may rely on a modified Socratic method consisting of a series of questions, which the students are expected to voluntarily answer. Other times, I will choose specific individuals to answer questions. Students will be graded according to their willingness to participate and their responses.

SPECIAL NEEDS

If you have a disability and need classroom accommodations, please contact The Center for Accommodations and Support Services (CASS) at 747-5148, or by email to cass@utep.edu, or visit their office located in UTEP Union East, Room 106. For additional information, please visit the CASS website at www.sa.utep.edu/cass. *CASS' Staff are the only individuals who can validate and if need be, authorize accommodations for students with disabilities.* Additionally, students with special needs **must** contact me in order to arrange appropriate accommodations.

ACADEMIC DISHONESTY

Absolutely no form of academic dishonesty will be tolerated. The University of Texas at El Paso prides itself on its standards of academic excellence. In all matters of intellectual pursuit, UTEP faculty and students must strive to achieve excellence based on the quality of work produced by the individual. In the classroom and in all other academic activities, students are expected to uphold the highest standards of academic integrity. Any form of scholastic dishonesty is an affront to the pursuit of knowledge and jeopardizes the quality of the degree awarded to all graduates of UTEP. It is imperative, therefore, that the members of this academic community understand the regulations pertaining to academic integrity and that all faculty insist on adherence to these standards.

Any student who commits an act of scholastic dishonesty is subject to discipline. Scholastic dishonesty includes, but is not limited to, cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another

person, taking an examination for another person, and any act designed to give unfair advantage to a student or the attempt to commit such acts. Proven violations of the detailed regulations, as printed in the Handbook of Operating Procedures (HOP) and available in the Office of the Dean of Students and the homepage of The Dean of Students at www.utep.edu/dos, may result in sanctions ranging from disciplinary probation, to failing a grade on the work in question, to a failing grade in the course, to suspension or dismissal, among others.

GENERAL EXPECTATIONS

I expect all students to behave professionally in this class. You will be held responsible for all material covered in the textbooks, articles, videos, and the class discussions. If you miss a class, you are still responsible for the content of that day's information. I will not tolerate disruptive behavior, including (but not limited to) reading newspapers, talking during lectures, using cell phones or pagers, and disrespecting classmates or the instructor. Additionally, I expect all students to attend class prepared and to show up on time. It is disrespectful to the instructor and the other students when individuals show up late or are not prepared to participate in the class discussion. I allow the use of laptops for note-taking purposes only; however, should laptop usage become disruptive, I reserve the right to prohibit laptops and other electronic devices.

This class is designed to provide information and challenge students with new, sometimes controversial, ideas, and arguments. This class is designed to be a safe, open environment to express ideas, arguments, and opinions for learning purposes. This class is designed to initiate an open discussion based upon the required readings, encourage critical thinking and application to current events, and enable students to digest difficult material through these discussions. This class DOES NOT give you knowledge—i.e. knowledge and understanding is not transfused to students by simply sitting in class. Learning is an interactive process and one that is the primary responsibility of each student.

Late assignments will receive no credit.

All grades are earned and reflect your reflect the mastery of material through the adequate completion of assignments by their deadline. As such, they do not reflect level of effort, interest, or intention. **I will not change final grades for the course under any circumstances,** with the single exception of cases where an error occurred on my end.

COURSE SCHEDULE

The following is a list of topics to be covered at each class meeting, and the readings which should be completed in order to fully participate in class that day. I **require** you to read the material prior to the class since you will be expected to participate in the discussion. Articles will be provided in Blackboard whenever possible. Exam material will consist of assigned readings and information covered during assignments and the class discussion. Finally, while I give specific days on which certain topics will be discussed, the calendar is subject to change. Any alterations to the course schedule will be clearly announced. (As a general rule the course will follow this order of topics, regardless of date changes, unless otherwise announced.)

WEEK 1: COURTS IN A COMPARATIVE PERSPECTIVE

Readings: Shapiro, Martin. 1986. *Courts: A Comparative and Political Analysis*.

Vanberg, George. 2015. "Constitutional Courts in a Comparative Perspective: A Theoretical Assessment." *Annual Review of Political Science* 18: 167-85.

WEEK 2 - 3: JUDICIALIZATION OF POLITICS

Readings: Tate, C. Neal and Torbjörn Vallinder. 1995. *The Global Expansion of Judicial Power*.

Shapiro, Martin, and Alec Stone Sweet. 2002. *On Law, Politics and Judicialization*.

WEEK 4 - 6: COMMON LAW

Readings: Stone Sweet, Alec. 2000. *Governing with Judges: Constitutional Politics in Europe*.

Epp, Charles 1998. *The Rights Revolution*.

Jacob, Herbert, Erhard Blankenburg, Herbert Kritzer, Doris Provine, and Joseph Sanders. 1996. *Courts, Law, & Politics in Comparative Perspective*.

WEEK 7 - 8: LATIN AMERICA

Readings: Seider, Rachel, Line Schjolden, and Alan Angell. 2005. *The Judicialization of Politics in Latin America*.

Helmke, Gretchen and Julio Ríos-Figueroa. 2011. *Courts in Latin America*.

Helmke, Gretchen. "Public Support and Judicial Crises in Latin America." *University of Pennsylvania Journal of Constitutional Law* 13.2 (2010-2011): 397-412.

Helmke, Gretchen. 2002. "The Logic of Strategic Defection: Court-Executive Relations in Argentina under Dictatorship and Democracy." *APSR* 96 (2): 291-303.

Schor, Miguel. 2009. An Essay on the Emergence of Constitutional Courts: The Cases of Mexico and Colombia." *Indiana Journal of Global Legal Studies* 16 (1): 173-194.

WEEK 9: ASIA

Readings: Ginsburg, Tom. 2003. *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*.

Ginsburg, Tom. 2008. "Constitutional Courts in East Asia: Understanding Variation," *3 Journal of Comparative Law* 80 (2008).

WEEK 10: AUTHORITARIAN REGIMES AND THE MIDDLE EAST

Readings: Ginsburg, Tom, and Tamir Moustafa. 2008. *Rule by Law: The Politics of Courts in Authoritarian Regimes*.

Solomon, Jr., Peter H. "Courts and Judges in Authoritarian Regimes." *World Politics* (October 2007): 122-45.

http://muse.jhu.edu/journals/world_politics/v060/60.1.solomon.pdf

Moustafa, Tamir. 2014. "Law and Courts in Authoritarian Regimes" *Annual Review of Law and Social Science*, vol. 10 (2014) 281-299.

Moustafa, Tamir. "Law versus the State: The Judicialization of Politics in Egypt" in *Law and Social Inquiry*, vol. 28 (2003), 883-930.

WEEK 11: JUDICIAL INDEPENDENCE

Readings: Russell, Peter H. and David M. O'Brien. 2001. *Judicial Independence in the Age of Democracy: Critical Perspectives from around the World*.

Helmke, Gretchen, and Frances Rosebluth. 2009. "Regimes and the Rule of Law: Judicial Independence in a Comparative Perspective." *Annual Review of Political Science* 12: 345-66.

<http://www.annualreviews.org/doi/pdf/10.1146/annurev.polisci.12.040907.121521>

Larkins, Christopher M.. "Judicial Independence and Democratization: A Theoretical and Conceptual Analysis". *The American Journal of Comparative Law* 44.4 (1996): 605-626.

Ramseyer, J. Mark. "The Puzzling (in)dependence of Courts: A Comparative Approach". *The Journal of Legal Studies* 23.2 (1994): 721-747.

WEEK 12: COURTS IN RUSSIA AND UKRAINE

Readings: Popova, Maria. 2012. *Politicized Justice in Emerging Democracies: Courts in Russia and Ukraine*. New York: Cambridge University Press.

Popova, Maria. 2010. "Political Competition as an Obstacle to Judicial Independence: Evidence from Russia and Ukraine," *Comparative Political Studies*, Vol. 43, Issue 10 (October 2010), pp. 1202-1229.

WEEK 13: COURTS IN A COMPARATIVE PERSPECTIVE

Readings: Kapiszewski, Diana, Gordon Silverstein, and Robert Kagan, eds. 2013. *Consequential Courts: Judicial Roles in Global Perspective*.

WEEK 14: CONCLUSIONS