

# POLS 3323 – COMPARATIVE COURTS

TR: 1:30 – 2:50 pm in UGLC Rm 342

INSTRUCTOR: Dr. Rebecca Reid  
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OFFICE: 307 Benedict Hall  
OFFICE HOURS: TR 11:00 am-1:00 pm and 3:00-5:00 pm, 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 styled as a seminar, but it will also employ student-led discussions, lectures, papers, and research projects to enable students to explore and analyze judicial institutions and behavior cross-nationally. Students will be expected to write a major, original research design paper on comparative courts in addition to several short papers evaluating and synthesizing the readings for selected weeks.

## 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 and 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 basic empirical studies.
- Developed the skills necessary to understand and evaluate contemporary problems as well will have learned to think critically and analytically about political issues and articulate arguments in oral and written form.
- Created a research design for the scientific study of a theoretically important problem related to courts.

## REQUIRED READING – (PLEASE SEE NOTE \*\* IN COURSE SCHEDULE)

- Jacob, Herbert, Erhard Blankenburg, Herbert Kritzer, Doris Provine, and Joseph Sanders. 1996. *Courts, Law, & Politics in Comparative Perspective*. Yale University Press.
- Tate, C. Neal and Torbjörn Vallinder. 1995. *The Global Expansion of Judicial Power*. New York: New York University Press.

- Epp, Charles 1998. *The Rights Revolution*. University of Chicago 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.
- Kapiszewski, Diana, Gordon Silverstein, and Robert Kagan, eds. 2013. *Consequential Courts: Judicial Roles in Global Perspective*. Cambridge University Press.
- Ginsburg, Tom. 2003. *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*. Cambridge University Press.
- Seider, Rachel, Line Schjolden, and Alan Angell. 2005. *The Judicialization of Politics in Latin America*. Palgrave McMillan.
- Popova, Maria. 2012. *Politicized Justice in Emerging Democracies: Courts in Russia and Ukraine*. New York: Cambridge University Press.
- Baglione, Lisa A. *Writing a Research Paper in Political Science*. 3rd edition. CQ Press.

#### **RECOMMENDED READING**

- Baum, Lawrence. 1997. *The Puzzle of Judicial Behavior*. Michigan Press.
- Shapiro, Martin. 1986. *Courts: A Comparative and Political Analysis*. University of Chicago Press.
- Stone Sweet, Alec. 2000. *Governing with Judges: Constitutional Politics in Europe*. NY: Oxford University Press.
- Shapiro, Martin, and Alec Stone Sweet. 2002. *On Law, Politics and Judicialization*. New York: Oxford University 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

***Participation:*** Attendance and participation are essential. Students are responsible for offering their thoughts, opinions, and questions without solicitation from the instructor. Needless to say, these thoughts should have merit and be based upon the readings. Additionally, students will be responsible to lead discussion on a specific number of days (which will be determined during the first week of class). This grade will also include the timely and adequate submission of the research design sections (such as the research question and literature review) and all associated revisions.

***Short papers:*** Four times during the semester each student must turn in a short paper, 2-3 pages (typed, and turned in hard copy format at the beginning of class), evaluating the week's set of readings. These papers should address the strengths and weaknesses of the readings, discuss common and disparate themes, how the scholarship is advanced (or not) by these readings, the limitations of the readings, how the research can be improved, etc. **This is not a summary of the readings.** Rather, the essay is an assessment of the readings, addressing the theoretical and methodological issues. References and citations are mandatory, and the works cited pages do not count toward the page limitations.

\*Students will select 4 weeks for which they will write these critical evaluation papers. Hence, there will be a total of 4 papers due for each student. *Students are responsible for successfully completing and submitting each paper and staying on schedule. Students are under no circumstances able to make up these papers, and I do not accept late work.*

***Research design paper:*** Students are required to submit an original research design paper, 10-15 pages (typed and submitted in hard copy format), **due on the last day of class.** *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 to empirically examine some theoretically important research question dealing with comparative courts. Students are not required to carry out the research itself. 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. The course schedule includes deadlines for various stages of the research paper process. Students are required to submit these sections by the deadline. No late work will be accepted. Adequate submission of each stage (research question, literature review, and first draft) will earn points in the class participation score; alternatively, failure to complete these assignments or inadequate completion will result in a deduction from the participation score.

### **SPECIAL ACCOMMODATIONS**

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](mailto: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](http://www.sa.utep.edu/cass). *CASS' Staff are the only individuals who can validate and if need be, authorize accommodations for students with disabilities.*

### **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](http://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. As general policy, I do not offer incompletes for this course. Finally, no assignments or materials are accepted after the last day of class or its scheduled due date.

## 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, however it is the responsibility of students to locate each article from the UTEP library (which has access to JSTOR, Sage, and other online journals). Occasionally, Google Scholar and author websites may similarly provide access to these articles. In no situation is a student expected to or required to purchase an article.

While I give specific days/weeks 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.

**NOTE\*\*:** Certain weeks provide students the option of reading the book or articles. **These weeks are demarked with an "or" in the required reading.** In these weeks, the student may choose to either read the book or to read the required articles (but not required to read both). In general, books may be longer but are less difficult to read in that they are able to provide

background information and more thorough explanations. Generally, books are written for a general audience, so each concept, method, and result are explained. Articles tend to be shorter, of course, but are often much more difficult to read as they are designed to be read by a specialized audience and do not have the space to offer explanations. Hence, articles tend to be short but dense and difficult, while books tend to be longer but easier and more comprehensive (and with more ‘fluff’). Books may not be available or accessible for free, which may also influence student choice.

## **WEEK 1: INTRODUCTION, LEGAL SYSTEMS, AND U.S. COURTS**

### **WEEK 2: JUDICIALIZATION**

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

### **WEEK 3: COURTS IN A COMPARATIVE PERSPECTIVE**

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

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

### **WEEK 4: JUDICIAL INDEPENDENCE**

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.

#### **OR**

Gibler, Douglas M. and Kirk A. Randazzo. 2011. “Testing the Effects of Independent Judiciaries on the Likelihood of Democratic Backsliding.” *AJPS* 55: 696-709.

Randazzo, Kirk, Douglas Gibler, and Rebecca Reid. 2016. “Examining the Development of Judicial Independence.” *Political Research Quarterly*.

Aydın, A. 2013. “Judicial Independence across Democratic Regimes: Understanding the Varying Impact of Political Competition.” *Law & Society Review*, 47 (1), 105-134.

Epperly, Brad. 2013. “The Provision of Insurance?: Judicial Independence and the Post-tenure Fate of Leaders.” *Journal of Law and Courts*, 1 (2), 247-278.

## **WEEK 5: COMMON LAW**

Epp, Charles R. 1998. *The Rights Revolution*. Chicago: University of Chicago Press.

**Due: Research Question**

## **WEEK 6: LATIN AMERICA**

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

**OR**

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

**Due: Research Question Revised**

## **WEEK 7: AUTHORITARIAN REGIMES AND MIDDLE EAST**

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

**OR**

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

Shetreet, Shimon. "Judicial Independence and Accountability in Israel." *The International and Comparative Law Quarterly*, vol. 33, no. 4, 1984, pp. 979–1012.

Burgis, M. 2007. "Judicial Reform and the Possibility of Democratic Rule in Jordan: A Policy Perspective on Judicial Independence." *Arab Law Quarterly*, 21 (2), 135-169.

## **WEEK 8: COURTS IN POST-COMMUNIST COUNTRIES**

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

**OR**

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.

Popova, Maria. 2010. "Be Careful What You Wish For: A Cautionary Tale of Post-Communist Judicial Empowerment," *Demokratizatsiya*, Vol.18 , No. 1 (Winter 2010), pp. 56-73.

Baird, Vanessa A., and Debra Javeline. 2007. "The Persuasive Power of Russian Courts." *Political Research Quarterly* 60(3): 429-442.

**Due: Literature Review**

**WEEK 9: COURTS IN NEW DEMOCRACIES AND ASIA**

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

**OR**

Cheesman, Nick. "How an Authoritarian Regime in Burma Used Special Courts to Defeat Judicial Independence." *Law & Society Review*, vol. 45, no. 4, 2011, pp. 801–830.

Ramseyer, J. Mark, and Eric B. Rasmusen. 1997. "Judicial Independence in a Civil Law Regime: The Evidence From Japan." *Journal of Law, Economics, and Organization* 13(2): 259-286.

Gillespie, J. 2007. "Rethinking the Role of Judicial Independence in Socialist-Transforming East Asia." *The International and Comparative Law Quarterly*, 56 (4), 837-869.

**WEEK 10: COURTS AND THE RULE OF LAW IN AFRICA**

Widner, Jennifer A. 2001. *Building the Rule of Law: Francis Nyalali and the Road to Judicial Independence in Africa*. W.&W. Norton Company.

**OR**

Gibson, James L., and Gregory A. Caldeira. 2003. "Defenders of Democracy? Legitimacy, Popular Acceptance, and the South African Constitutional Court." *The Journal of Politics* 65(1): 1-30.

Vondoepp, Peter. 2006. "Politics and Judicial Assertiveness in Emerging Democracies: High Court Behavior in Malawi and Zambia." *Political Research Quarterly* 59(3): 389-399.

Haynie, S., and Kaitlyn L. Sill. 2007. "Experienced Advocates and Litigation Outcomes: Repeat Players in the South African Supreme Court of Appeal." *Political Research Quarterly*, 60 (3), 443-453.

**WEEK 11: COURTS IN A COMPARATIVE PERSPECTIVE**

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

**WEEK 12 : COMPARATIVE COURT ANALYSIS IN PRACTICE**  
**Due: Research Design Paper Draft**

**WEEK 13: COMPARATIVE COURT ANALYSIS IN PRACTICE**

**WEEK 14: COMPARATIVE COURT ANALYSIS IN PRACTICE**

**WEEK 15: CONCLUSIONS**

**Due: Research Design Final Paper**