

POL 4309
Justice in America
Tuesday and Thursday 2:15-3:30, Blegan Hall 155
Professor Timothy R. Johnson
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I. COURSE DESCRIPTION

The principal purpose of this course is to introduce you to the scientific study of judicial politics. We will first discuss the social scientific study of courts. Second, we will examine theoretical issues regarding judicial process and politics. This course, unlike constitutional law and civil liberties classes, does not study legal doctrine; rather, it examines political aspects of the legal system, with an emphasis on the social scientific literature on law and legal process.

II. REQUIRED TEXTBOOK

Please purchase the following book, which is an introductory text on judicial politics. I recommend that you read the appropriate material from it prior to moving on to any other reading for the week.

Murphy, Pritchett, and Epstein. 2002. *The Supreme Court*. 5th ed. McGraw Hill: Boston, MA.

III. GRADES

I will base your grade on two non comprehensive exams (100 points each), a research design (100 points), class participation (40 points), and thought questions (60 points). The exams will cover both class lectures and the readings. It is therefore important to be familiar with the readings, and attend class to receive additional information. Grades will be calculated as follows (in percent out of 400):

A = 93.6-100
A- = 90-93.5
B+ = 86.5-89.9
B = 83.6-86.4
B- = 80-83.5
C+ = 76.5-79.9
C = 73.6-76.4
C- = 70-73.5
D+ = 66.5-69.9
D = 60-66.4
F+ = below 60

Examinations. You will take a midterm and a final exam **IN CLASS**. They will be a mixture of multiple choice, short answer, and essay questions.

Research Design: The research design will be a 10 to 12 page paper (typed, double spaced) dealing with one of the class topics in greater detail. More specifically, you will provide an empirical research design, in which you ask an interesting question, review the relevant literature, propose an explanation for the event or behavior of interest (i.e., develop a set of causal hypotheses), and investigate how you might test your hypotheses.

Senior Paper Requirement: Based on the new rules in the Department of Political Science, if you obtain a C- or better in this course, you will have fulfilled the senior paper requirement. You do not have to register for the 1-credit senior paper course.

Note, however, this course *does not* fulfill the college's writing intensive requirement. For those of you who need to take the 4900W for 1 credit, or those of you who want to write your honors paper in conjunction with this class, you will be required to take an additional step. You will have to gather data (whether qualitative or quantitative) and actually put your hypotheses to the test. This requirement is non-negotiable, and the research must be completed by the end of the semester. Graduate students enrolled in 5309 must also meet this requirement.

Thought Questions: You will be expected to hand in thought questions three times during the semester. Not everyone will have to hand them in the same day. I will assign you to groups and you will be responsible for handing questions in when assigned. I will not grade the thought questions. Rather, it is an all or nothing proposition. If you hand them all in you earn 20 points. If you do not do so, you lose those points, and they are not recoverable! So you know, if you miss one day of your thought questions that is 5 percent of your total grade. I will also be the judge of whether these are really thought questions. I expect them to be insightful questions that will help spur on our discussions (see the Thought Questions section of the syllabus for a description of this assignment and due dates).

IV. CLASS POLICIES

Examinations. You are expected to take the exams on the dates listed. If you cannot take the exams on this date, you must talk with **me at least two weeks prior to the exam to make separate arrangements. This timeline is non-negotiable. Exceptions to the schedule will be made only in the most unusual of circumstances!**

Reading. All of the readings listed in this syllabus are required. The assigned reading is fair game for the examination, whether discussed in class or not. This includes the assigned readings at the end of each chapter – even if they are not specifically discussed in class.

A few recommendations for how to go about reading the material for this course – be an active reader. Take notes, jot down questions that occur to you as you are reading, and highlight passages that you find particularly interesting/troubling/surprising/hard to swallow. Note similarities or inconsistencies across the various readings. Think about the implications of the readings for understanding propaganda. Always bring the readings to class with you, along with any notes you may have taken while reading them.

Attendance and Participation. You should attend class, period. Participation is an integral part of this course, and for the class to be of significant benefit you must come to class having thoroughly read all the assigned materials. If you only attend class and never talk you will only be able to earn half of the participation grade.

Late Policy: This one's easy. Since you have the due dates for all the assignments already, no late papers will be accepted. Please plan way in advance to avoid any problems with meeting the deadlines.

Writing Support for Students: If you would like additional help writing the paper for this class, the Writing Center Support Network (<http://cisw.cla.umn.edu/wsn.html>) is a clearinghouse for the many writing resources available at the University.

You can also go to CLA's Student Writing Center in 306B Lind Hall. The Writing Center's consultants and tutors are available by appointment or on a walk-in basis. Contact the Center for more information (625-1893).

Cheating and Plagiarism. Academic dishonesty will absolutely not be tolerated. Academic dishonesty is defined as "any act that violates the rights of another student with respect to academic work or that involves misrepresentation of a student's own work. It includes (but is not limited to) cheating on assignments or examinations, plagiarizing (misrepresenting as one's own work anything done by another), submitting the same or substantially similar papers (or creative work) for more than one course without consent of all instructors concerned, depriving another of necessary course materials, and sabotaging another's work." Individuals suspected of academic misconduct will be handled according to established University rules. If you have questions about plagiarism or the use of sources, please feel free to discuss them with Professor Johnson or one of the TA's.

Other: All other University of Minnesota and College of Liberal Arts (CLA) policies also apply in this course. These include policies regarding sexual harassment. University policy prohibits sexual harassment as defined in the 5/17/84 policy statement, copies of which are available at 419 Morrill Hall. Complaints about sexual harassment should be reported to the University Office of Equal Opportunity at 419 Morrill Hall.

V. CONTACTING PROFESSOR JOHNSON and the TA

You can contact me **EITHER** at my office (625-2907) or via email. Additional announcements can be found on the course web page at the address listed at the top of this syllabus.

Chris Galdieri is the course TA. His e-mail is: galdieri@polisci.umn.edu. He will hold office hours in Social Sciences 1208 (times to be announced).

VI. SCHEDULE OF TOPICS AND READING ASSIGNMENTS

The following course outline lists the topics covered in this class. The speed at which we get through this material will depend on the dynamics of the class, and we may therefore deviate from the outline.

A. Introduction to the Scientific Study of Courts and Court System (January 20-22)

Class Discussion:

What is social science and how is it applied to the study of judicial process and politics?

What is the Court system?

B. What is the Law and Jurisprudence? (January 27-29) Group 1

Murphy et al. – Chapter 1

Readings: Blackstone, Hamilton, De Tocqueville, Holmes, Baer

Class Discussion: What is Law?

C. The Role of Courts (February 3-5) Group 2

Murphy et al. – Chapter 2

Readings: Mather, Marbury, Raub, Dahl

Class Discussion: The counter-majoritarian Dilemma.

D. Judicial Organization (February 10-16) Group 3

Murphy et al. – Chapter 3

Readings: Judiciary Act, Rowland and Carp, Howard, Brennan, Michigan v. Long

Class Discussion: The court system

E. Judicial Retention and Selection (February 19-26) Group 1

Murphy et al. – Chapter 4

Readings: Goldman, Rehnquist, Caldeira and Wright, Bork, Nixon v. U.S.

Class Discussion: Appointment Process and the Supreme Court

F. The Bar (March 2-4) Group 2

Murphy et al. – Chapter 5

Readings: Turow, Blumberg, Bailey, O'Connor

Class Discussion: Attorneys and Litigants

March 9 Review

March 11 Exam

G. Access to Judicial Power (March 23-March 30) Group 3

Murphy et al. – Chapter 6

Readings: Request for Advisory Opinion, Roe and DeFunis, Galanter, Caldeira and Wright

Class Discussion: Barriers to Entry, and Interest Groups (the NAACP)

I. Instruments of Judicial Power (April 1-April 6) Group 1

Murphy et al. – Chapter 7

Readings: Hopwood, Madsen, Wyatt, Allen

Class Discussion: Judicial Remedies

J. Limitations on Judicial Power (April 8-22) Group 2 ** NO CLASS APRIL 15

Murphy et. al – Chapter 8

Readings: Epstein and Knight, Jackson, F.D.R., Clinton, Eskridge, Gibson et. al.

Class Discussion: Separation of Powers, Public Opinion, and other constraints

K. The Impact of Judicial Decisions (April 27-29) Group 3

Murphy et al. – Chapter 14

Readings: Canon and Johnson, Slotnick and Segal, Bakers, Rosenberg, Hoekstra and Segal

Class Discussion: Impact of Court Decisions

May 4 Review

May 6 Exam

NOTE: Depending on the dynamics of the class or campus emergency, the information on this syllabus may be modified by the instructor. Students will be notified of any changes.

Paper Assignment: Research Design.

Research designs are road maps. They tell the reader where you are going, why the trip is expected to be worth the effort, and exactly how you intend to arrive at your destination. As a set of directions, the reader should be able to duplicate your steps and arrive at exactly the same conclusions. Research designs are *not* research papers; you are not expected to complete the research that you propose.

Research designs tend to follow a common form. However you organize your own, it must contain the following elements:

I. Present an interesting question

Explicitly state the question that you will be addressing in your paper and explain why it is an important and interesting question to scholars who study judicial politics. Make sure the question is suitably narrow in focus (remember that you are not writing a book).

- Why does the Senate usually confirm Supreme Court nominees?
- What explains patterns of coalition formation on the Supreme Court?
- Why do most lawsuits in the U.S. end up being settled before trial?
- How does lifetime tenure of federal judges affect how they do their jobs?

Asking a good question, or posing an interesting problem this is often the most overlooked step in beginning a research design. The statement of the problem always takes the form of a question, and takes the place of a more formal thesis statement in a research paper. Always place your research question at the beginning of the research design. ***This section need not be very long - often a simple paragraph that explains why your question is interesting and worthy of further investigation.***

II. Review the relevant literature

Read published research that is relevant to the question you are examining (both books and journal articles) and include a brief written overview. What have been the major findings? What do we know about this topic? What don't we know?

The literature review should place your project in perspective of the research traditions in your area of interest. You should focus on questions such as how others have addressed your question - what are the major schools of thought? - and you should also detail how your project relates to existing research:

- Are you replicating an existing study?
- Are you testing an existing hypothesis with a new set of cases or with a different method?
- Are you extending an existing theory to a new dependent variable?
- Are you deducing new explanations for an already-studied phenomenon?

- Are you formalizing an “informal” hypothesis and deriving new implications?
- Something else?

In the literature review you should avoid summarizing everything that you have ever read on your subject. If one part of the research design needs “cutting,” do it here. It is likely that your reader is familiar with the basic lines of argument in the literature, so focus on general lines of argument and themes, rather than on specific authors. Discuss specific works only when absolutely necessary to make your point. Do not take the reader through a step-by-step exegesis of even the most important works. Do not include paragraph-long footnotes on points you find particularly interesting or arguments you find particularly ridiculous. Do not “machine-gun” existing research by discussing flaws unrelated to your research question. Your purpose is not to “defeat” existing theories, or show that everybody else’s work is flawed - and by implication yours will be perfect. As a general rule of thumb, the literature review ought not to comprise more than 25% of the total research design.

III. Develop a theoretical explanation that attempts to answer your question

Based on your understanding of judicial process and politics, what might explain the phenomenon you're interested in? Clearly state a specific hypothesis (or set of hypotheses) that derives from your theoretical explanation. You should make a convincing argument for why we should expect your hypothesis to be “true.” It is generally not a good idea to present a hypothesis that directly contradicts the findings of past research. Make sure that all your hypotheses are “falsifiable.” That is, can your hypothesis be shown to be wrong? Can you conceive of evidence that could be found that would repudiate your hypothesis? A hypothesis that is not falsifiable cannot be tested and thus is worthless.

IV. Outline a test of your hypothesis (or hypotheses)

Figure out how you can test your hypothesis (decide what type of data you will need and construct a research design that will employ this data to empirically test your hypothesis). Make sure that you explain why this is an appropriate way to test your hypothesis. If your theory/hypothesis has any validity to it, what should the data look like? What are your expectations? You can use either qualitative or quantitative data to test your hypotheses.

More specifically:

First, you must operationalize your variables. This means that you should identify empirical referents that measure the abstract concepts specified in your hypotheses. Discuss how your operational indicators of the abstract concepts are valid (measure the true variable as closely as possible) and reliable (yield consistent values across a series of observations).

Second, you must select your cases. Your cases should be dictated by the research question, not vice versa. Of course, if your research question is derived from an empirical puzzle, your selection of cases may be constrained. Some of the simplest guidelines:

- In the normal science paradigm, it is always better to have more cases. In your research, however, this may not be feasible for any number of reasons, which you ought to explain.
- Select cases that reflect variation on your independent variables.
- Hold constant factors that might contaminate your results. These “excluded” variables might be the “real” reason your cases vary on the dependent variable, so the excluded factors need to be controlled for.
- Do not select cases in a manner that is correlated with the dependent variable.

In general, you need to explain why your cases are appropriate, and address issues of selection bias: why selection of your cases does not automatically lead to confirmation of your hypothesis, and why cases that are not included would be not necessary to either confirm or refute your hypothesis.

Third, you must explain why the particular method you have chosen is appropriate for your question and purposes. While scholars are always motivated by personal interests (“I am interested in the evolution of human-rights norms”) and skills (“I am particularly adept at statistical modeling”), you must demonstrate how the choice of principles is appropriate. In other words you need to explain why other methods would provide improper inferences (and not why they would provide the “wrong” answer). This involves addressing the levels-of-analysis problem and other tricky methodological issues.

Fourth, you must select your evidence. A research design should identify the types of empirical evidence you will need to collect to measure your operational variables. You should explain how and where you can obtain the information you just described. Will you have to compile the data yourself, or does it exist in some format already publicly available? The list of potential sources is long: interviews, newspapers, monographs, government documents, surveys, electoral returns, fiscal data, etc. The test of good evidence is in its appropriateness – but you also must conduct a “reality test” when it comes to evaluating the availability and cost of obtaining the evidence. In this section you should also address potential problems of reliability and bias of sources. This part of the research design is typically fairly short, but is absolutely critical.

V. Perform the data analysis (FOR 4900W, HONORS, and GRADUATE PAPERS ONLY)

Gather the necessary data (which you should describe in detail) and perform the “test” that you described in the above section. Present the results and explain what they mean. Make sure you do this clearly. Does the evidence support your hypothesis or refute it? How confident are you in your results?

VI. Discussion

Provide a discussion of the implications of your findings. Have you answered the question you set out to address? What does your research tell us about judges or courts, etc.? You should also acknowledge any limitations associated with your research. Finally, try to indicate how future researchers might continue studying this question. In other words, if you were to continue working on this question, what would you do?

Sources of Information for your Paper

1. <http://oyez.nwu.edu/>. This site provides oral arguments from leading constitutional law cases decided by the U.S. Supreme Court.
2. <http://supct.law.cornell.edu/supct/index.html>. The Legal Information Institute offers Supreme Court opinions under the auspices of Project Hermes, the court's electronic-dissemination project. This archive contains nearly all opinions of the court issued since May of 1990, as well as important decisions before 1990. In addition, it contains the Court's current oral argument schedule, calendar, recent order lists, Supreme Court rules, and a glossary of legal terms. It also has comprehensive biographies of all U.S. Supreme Court justices.
3. <http://www.uscourts.gov/>. This site is the federal judiciary homepage.
4. <http://thomas.loc.gov/home/thomas2.html>. This site provides a host of legislative information.
5. <http://207.138.39.140/>. This is the Findlaw site, which provides access to court opinions, legal organizations, news, and the like.
6. <http://www.fjc.gov/>. This site contains information on courts, including a biographical database of federal judges since 1789, histories of the federal courts, and historical documents related to the judicial branch of government.
7. *The Supreme Court Compendium: Data, Decisions, and Developments* (by Epstein, Segal, Spaeth, and Walker) is a good source for various judicial data
8. U.S. Supreme Court Reports (or Lawyers' Editions) houses U.S. Supreme Court opinions (located at Shields and the law school library).

You can access additional sources from my Web page.

DUE DATES

Question Due: February 10th (10 points)

Lit Review (5 article/book minimum; if you use web pages you still need five books or articles)
Due: March 2nd (20 points)

Hypotheses and Data Due: March 26th (10 points)

Final Paper Due: April 26th (60 points)

These dates are nonnegotiable, and will only be changed in the most unusual of circumstances.

Thought Questions

Some of the readings for this class will be more difficult than for other classes you've had. So, I expect that some of our class discussions will be focused on clarifying confusing things in the readings. To facilitate these discussions, you will be required to turn in "thought questions" about the readings for some of the course topics during the semester (see below for the due dates for thought questions). Thought questions will be due to me by 5:00 pm on the day *before* we will begin discussing a topic. You should email your questions directly to me (tjohnson@polisci.umn.edu). **I prefer that you put your questions directly in the text of an email instead of sending an attachment.**

So, what do I mean by thought questions? These questions may arise directly from one or more of the readings for that week – you may be confused about something and want clarification, or you might disagree with something an author says. Or, they may be broader questions that link the issues raised in the readings with other topics already considered in the course or with current/past events or from other classes you've taken. You should plan to turn in 2-3 thought questions per assignment. I will use the questions to help me prepare the lecture and class discussion for that day.

Absolutely no late thought questions will be accepted. If you anticipate a problem meeting the deadline for the date you are assigned, please talk to me *at least one week prior* to the due date. If you do not turn in thought questions on your assigned date, and have not made other arrangements with me, you will get a zero on the assignment. The only cases for which I will reschedule thought questions if I have not been contacted prior to the due-date are illness (with a doctor's note) and death in the family.

*It is important to keep in mind that thought questions are not graded like other assignments – when you turn them in, you get full credit. When you don't turn them in, you don't get any credit. **Bottom line:** Not turning in thought questions on time is the best way to ensure you won't get a good grade in the class.*

THOUGHT QUESTION GROUPS

Group 1	Group 2	Group 3
Agan,James Bernard	Holm,Daniel Paul	Mussell,Nathaniel Christian
Allard,Renee Danielle	Holtz,Jeffrey Philip	Nundahl,Annalisa Marie
Beckstrom,Kendell Kaye	Hvinden,Kelly Marie	Oman,Roberta Rose
Black,Ryan Christopher	Inman,Ryan Steven	Parada,Leyla Fatima
Braun,Jason Edward	Jakobe,Jenny Ann	Petersen,Casey Buckman
Brooks,Augustus Webster	Johnson,Alyssa Catherine	Peterson,Ryan Dale
Brothman,Brian Phillip	Joyce,Kristy Marie	Pierce,Tracy Lee
Bucher,Emily Jean	Kaniewski,Robert Edward	Prozeller,Ann Marie
Callahan,Ryan Gregory	Kim,Se-Young	Selleck,Preston Andrew
Chen, Jiabei	Koepsell,Andrew William	Sieben,William Joseph
Colin,Shane Joseph	Lake,Morgan Levi	Signorin,Lucille Jeanette
Cooper,Jeffrey Marc	LaSee,Thomas Christian	Skidmore,Emily Anne
Costello,Meggan April	Leonard,Conor Burden	Slater,James Thomas
Cronin,Nicholas Adam	Lindblom Jr,Timothy Lars	Smith,Andrew Landon
Dilger,Jeffrey Eischen	List,Nathan Reed	Sorenson,Maron Wein
Donaldson,Patrick John	Lovas,Michael Joseph	Stallkamp,Jennifer Lynne
Engen,Amanda Jeanne	Luther,Megan Amy	Steen,Jacob William
Farrell,Amy Elizabeth	Mack,Shawna Marie	Tieszen,Bradley Allen
Freimark,Zachary James	Mandelman,Elizabeth Frances	Tillman,Rasheen Rae
Gallegos,Hannah Elycia	Marohn,Brendan Edward	Timm,Christopher Adam
Getty,Carissa J	McCorkell,Trista Lyn	Tyler,Jonathan Eric
Hawkins,Douglas Steven	McMahon,Adrienne Lynn	Uzong,Renee Ibe Kikang
Heaney,Adam Boyan	Mechell,Bryan James	Widhalm,D'Angela Kari
Hill-Ische,Joel Bennett	Movern,Matthew Alan	Winters,Chad Micheal
Hodek,Jessica Marie	Murray,Joseph Allen	Yang-Lee,Mee Molly