

POLS 6355: Judicial Processes
Philip Guthrie Hoffman Hall 405 , W 1-4
Fall 2019

Instructor: Dr. Alex Badas

Email: abadas@uh.edu

Office Hours: Monday 11-2 and by appointment in Philip Guthrie Hoffman Hall 431

Course Description: This is a graduate level seminar on judicial politics. This course will introduce graduate students to the literature on judicial processes, institutions, and behavior in the United States. The primary focus of the class will be the United States Supreme Court. In selecting readings, I mostly selected contemporary readings. In focusing on contemporary readings, I believe that an auxiliary benefit is that students will be exposed to high quality research designs and are exposed to research topics currently being published in the field of judicial politics. My hope is that such exposure will allow you all to develop quality research designs and gain awareness of topics more likely to be published. Students who plan on specializing in judicial politics are encouraged to read the classics independently. Please come to me for suggestions.

Required texts: The following textbooks are required for this course. Additional readings will be posted to the course site.

- Segal, J. A. and Spaeth, H. J. (2002). *The Supreme Court and the Attitudinal Model Revisited*. Cambridge University Press
- Epstein, L. and Knight, J. (1998). *The Choices Justices Make*. Congressional Quarterly Press

Course Requirements:

- Research article. Final product 30%. Subcomponents 25%. Total 55%.
 - Students will complete an empirical research article on a topic related to judicial politics. The article should be between 18-25 pages in length and the final product should be something you would not be completely embarrassed to present at an academic conference. The article has subcomponents which are detailed below.
 - * Research proposal 5%. Students will write a 2-3 page proposal for their research article. The proposal will outline: (1) The article’s research question; (2) The article’s hypotheses; (3) The data you plan to use to test your hypotheses; and (4) Potential implication of your research article.
 - * Peer review 5%. Each student will review a draft from two colleagues and write up 2-3 pages of feedback on the article as if they were performing a peer review for an academic journal.
 - * Peer review response memo 5%. Students will make revisions based on the comments from the peer reviews they receive. Students will detail the revisions they have made in a response memo that will be submitted with the final draft of their article.
 - * Reproduction 5%. Students will submit data and code required to reproduce the analysis presented in their paper. Code should be commented such that easy for someone who isn’t you to follow and implement. I suggest asking a colleague to run your code before final submission.

- * Presentation 5%. Each student will present their research article during the final class session. Presentations will follow the conventional academic conference format; i.e., 10-15 minute presentation with slides.
- Discussion leader. 10% each for a total of 20%
 - Each student will be discussion leader for two classes. I will circulate a sign up sheet on the first day of class. The requirements of the seminar leader include: (1) Provide a synthesis of the week's readings. What are the main takeaways and why are they important to our understanding of judicial politics? (2) Provide positive impressions and critical impressions of the theory, assumptions, research designs of the week's readings. (3) Pose questions and lead seminar discussion. These may include but are not limited to questions about future research, measurement of concepts, implications, and generalizability.
- Weekly writing memos. 15%
 - Each week, students will write a 2-3 page memo discussing their general impressions of the readings. Memos should be more than summaries of the readings and should critically engage with them. Memos may also discuss novel applications of theory or methods discussed in the readings. Post memos to the course Dropbox folder before 3pm on Tuesday. Students should at the very least skim their colleagues' memos before seminar.
- Participation. 10%
 - High level student participation is essential for a successful seminar. Students are expected to attend each seminar. Further, students are expected to have carefully read and carefully thought about the assigned readings and be ready to discuss them. Seminar attendance alone is not enough to earn a satisfactory participation score.

Course Schedule and Readings

Week 1, August 21 - Intro to the Course and Context of Federal Judiciary

Readings:

- The syllabus
- Federalist 78
- Anti Federalist 78-82
- Kavanaugh, B. M. (2015). The judge as umpire: Ten principles. *Cath. UL Rev.*, 65:683
- Posner, R. A. (1987). What am i, a potted plant? the case against strict constructionism. *The New Republic*
- Epstein, L. (2015). Some thoughts on the study of judicial behavior. *Wm. & Mary L. Rev.*, 57:2017

Assignments: Sign up to be a discussion leader.

Week 2, August 28 - Attitudinal Model

Readings:

- Segal, J. A. and Spaeth, H. J. (2002). *The Supreme Court and the Attitudinal Model Revisited*. Cambridge University Press
- Baum, L. (1994). What judges want: Judges' goals and judicial behavior. *Political Research Quarterly*, 47(3):749–768
- Segal, J. A. (1984). Predicting supreme court cases probabilistically: The search and seizure cases, 1962-1981. *American Political Science Review*, 78:891–900
- Segal, J. A. and Spaeth, H. J. (1996). The influence of stare decisis on the votes of united states supreme court justices. *American Journal of Political Science*, 40:971–1003
- Epstein, L., Parker, C. L., and Segal, J. A. (2018). Do justices defend the speech they hate? an analysis of in-group bias on the us supreme court. *Journal of Law and Courts*, 6(2):237–262
- Zorn, C. and Bowie, J. B. (2010). Ideological influences on decision making in the federal judicial hierarchy: An empirical assessment. *The journal of politics*, 72(4):1212–1221
- Martin, A. D. and Quinn, K. M. (2002). Dynamic ideal point estimation via markov chain monte carlo for the us supreme court, 1953–1999. *Political Analysis*, 10(2)(2):134–153(skim)
- Segal, J. A. and Cover, A. D. (1989). Ideological values and the votes of supreme court justices. *American Political Science Review*, 83:557–565 (skim)
- Bailey, M. A. (2013). Is today's court the most conservative in sixty years? challenges and opportunities in measuring judicial preferences. *The Journal of Politics*, 75(3):821–834 (skim)

Week 3, September 4 - Strategic Model

Readings:

- Epstein, L. and Knight, J. (1998). *The Choices Justices Make*. Congressional Quarterly Press
- Epstein, L. and Knight, J. (2000). Toward a strategic revolution in judicial politics: A look back, a look ahead. *Political Research Quarterly*, 53:625–661
- Wahlbeck, P. J., Spriggs, J. F., and Maltzman, F. (1998). Marshalling the court: Bargaining and accommodation on the united states supreme court. *American Journal of Political Science*, pages 294–315
- Lax, J. R. and Rader, K. (2015). Bargaining power in the supreme court: Evidence from opinion assignment and vote switching. *The Journal of Politics*, 77(3):648–663
- Carrubba, C., Friedman, B., Martin, A. D., and Vanberg, G. (2012). Who controls the content of supreme court opinions? *American Journal of Political Science*, 56(2):400–412

Week 4, September 11 - Legal Constraint

Readings:

- Lax, J. R. (2011). The new judicial politics of legal doctrine. *Annual Review of Political Science*, 14:131–157
- Gillman, H. (2001). What’s law got to do with it? judicial behavioralists test the “legal model” of judicial decision making. *Law & Social Inquiry*, 26(2):465–504
- Richards, M. J. and Kritzer, H. M. (2002). Jurisprudential regimes in supreme court decision making. *American Political Science Review*, 96(2):305–320
- Friedman, B. (2006). Taking law seriously. *Perspectives on Politics*, 4:1–16
- Bartels, B. L. (2009). The constraining capacity of legal doctrine on the u.s. supreme court. *American Political Science Review*, 3:474–95
- Braman, E. and Nelson, T. E. (2007). Mechanism of motivated reasoning? analogical perception in discrimination disputes. *American Journal of Political Science*, 51(4):940–956

Week 5, September 18 - Agenda Setting, Oral Arguments, and Amicus Briefs

Readings:

- Black, R. C. and Owens, R. J. (2009). Agenda setting in the supreme court: The collision of policy and jurisprudence. *The Journal of Politics*, 71(3):1062–1075
- Boucher Jr, R. L. and Segal, J. A. (1995). Supreme court justices as strategic decision makers: Aggressive grants and defensive denials on the vinson court. *The Journal of Politics*, 57(3):824–837

- Johnson, T. R., Wahlbeck, P. J., and Spriggs, J. F. (2006). The influence of oral arguments on the us supreme court. *American Political Science Review*, 100(1):99–113
- Johnson, T. R., Black, R. C., and Wedeking, J. (2009). Pardon the interruption: An empirical analysis of supreme court justices' behavior during oral arguments. *Loy. L. Rev.*, 55:331
- Collins, P. M. (2004). Friends of the court: Examining the influence of amicus curiae participation in us supreme court litigation. *Law & Society Review*, 38(4):807–832
- Manzi, L. and Hall, M. E. (2017). Friends you can trust: A signaling theory of interest group litigation before the us supreme court. *Law & Society Review*, 51(3)(3):704–734

Week 6, September 25 - The Impact of Supreme Court Decision-Making

Readings:

- Rosenberg, G. N. (2005). Courting disaster: Looking for change in all the wrong places. *Drake L. Rev.*, 54:795
- Hall, M. E. (2014). The semiconstrained court: Public opinion, the separation of powers, and the us supreme court's fear of nonimplementation. *American Journal of Political Science*, 58(2):352–366
- McGuire, K. T. (2009). Public schools, religious establishments, and the us supreme court: An examination of policy compliance. *American Politics Research*, 37(1):50–74
- Grossmann, M. and Swedlow, B. (2015). Judicial contributions to us national policy change since 1945. *Journal of Law and Courts*, 3(1):1–35
- Hall, M. E. (2015). Testing judicial power: The influence of the us supreme court on federal incarceration. *American Politics Research*, 43(1):83–108
- Boldt, E. D. and Gizzi, M. C. (2018). The implementation of supreme court precedent: The impact of arizona v. gant on police searches. *Journal of Law and Courts*, 6(2):355–378

Assignments:

- Research article proposal due

Week 7, October 2 - Separation of Powers and the Judiciary

Readings:

- Dahl, R. A. (1957). Decision-making in a democracy: The supreme court as a national policy-maker. *Journal of Public Law*, 6:279–295
- Mark, A. and Zilis, M. A. (2018b). Restraining the court: Assessing accounts of congressional attempts to limit supreme court authority. *Legislative Studies Quarterly*, 43(1):141–169

- Mark, A. and Zilis, M. A. (2018a). The conditional effectiveness of legislative threats: How court curbing alters the behavior of (some) supreme court justices. *Political Research Quarterly*, page 1065912918798501
- Clark, T. S. (2009). The separation of powers, court curbing, and judicial legitimacy. *American Journal of Political Science*, 53.4:971–989
- Epstein, L. and Posner, E. A. (2016). Supreme court justices' loyalty to the president. *The Journal of Legal Studies*, 45(2)(2):401–436
- Yates, J. and Whitford, A. (1998). Presidential power and the united states supreme court. *Political Research Quarterly*, 51(2):539–550
- Black, R. C. and Owens, R. J. (2013). A built-in advantage: The office of the solicitor general and the us supreme court. *Political Research Quarterly*, 66(2):454–466
- Eshbaugh-Soha, M. and Collins, P. M. (2015). Presidential rhetoric and supreme court decisions. *Presidential Studies Quarterly*, 45(4):633–652
- Black, R. C. and Owens, R. J. (2016). Courting the president: How circuit court judges alter their behavior for promotion to the supreme court. *American Journal of Political Science*, 60(1):30–43

Week 8, October 9 - Nomination, Confirmation, and Retirement

Readings:

- Nemacheck, C. (2008). *Strategic Selection: Presidential Nominees of Supreme Court Justices from Herbert Hoover through George W. Bush*. University of Virginia Press, chapter 6
- Epstein, L., Lindstädt, R., Segal, J. A., and Westerland, C. (2006). The changing dynamics of senate voting on supreme court nominees. *Journal of Politics*, 68(2)(2):296–307
- Kastle, J. P., Lax, J. R., Malecki, M., and Phillips, J. H. (2015). Polarizing the electoral connection: Partisan representation in supreme court confirmation politics. *The Journal of Politics*, 77(3):787–804
- Binder, S. A. and Maltzman, F. (2002). Senatorial delay in confirming federal judges, 1947–1998. *American Journal of Political Science*, 46(1):190–199
- Asmussen, N. (2011). Female and minority judicial nominees: President's delight and senators' dismay? *Legislative Studies Quarterly*, 36(4):591–619
- Sen, M. (2017). How political signals affect public support for judicial nominations: Evidence from a conjoint experiment. *Political Research Quarterly*, 70(2):374–393
- Hitt, M. P. (2013). Presidential success in supreme court appointments: Informational effects and institutional constraints. *Presidential Studies Quarterly*, 43(4):792–813
- Zorn, C. J. and Van Winkle, S. R. (2000). A competing risks model of supreme court vacancies, 1789–1992. *Political Behavior*, 22(2):145–166

Week 9, October 16 - Identity Politics and the Judiciary

Readings:

- Boyd, C. L., Epstein, L., and Martin, A. D. (2010). Untangling the causal effects of sex on judging. *American Journal of Political Science*, 54:389–411
- Kastellec, J. P. (2013). Racial diversity and judicial influence on appellate courts. *American Journal of Political Science*, 57(1):167–183
- Sen, M. (2014). Is justice really blind? race and appellate review in u.s. courts. *Journal of Legal Studies*, 44
- Moyer, L. P. and Haire, S. B. (2015). Trailblazers and those that followed: Personal experiences, gender, and judicial empathy. *Law & Society Review*, 49(3):665–689
- Blake, W. (2012). God save this honorable court: Religion as a source of judicial policy preferences. *Political Research Quarterly*, 65(4):814–826
- Boyd, C. L., Collins Jr, P. M., and Ringhand, L. A. (2018). The role of nominee gender and race at us supreme court confirmation hearings. *Law & Society Review*, 52(4):871–901
- Zilis, M. A. (2018). Minority groups and judicial legitimacy: Group affect and the incentives for judicial responsiveness. *Political Research Quarterly*, 71(2):270–283

Week 10, October 23 - Public Opinion and the Judiciary Pt 1

Readings:

- Epstein, L. and Martin, A. D. (2010). Does public opinion influence the supreme court? yes (but we're not sure why). *University of Pennsylvania Journal of Constitutional Law*, 13
- Casillas, C. J., Enns, P. K., and Wohlfarth, P. C. (2011). How public opinion constrains the us supreme court. *American Journal of Political Science*, 55(1):74–88
- Owens, R. J. and Wohlfarth, P. C. (2017). Public mood, previous electoral experience, and responsiveness among federal circuit court judges. *American Politics Research*, 45(6):1003–1031
- Ura, J. D. (2014). Backlash and legitimation: Macro political responses to supreme court decisions. *American Journal of Political Science*, 58(1):110–126
- Hoekstra, V. J. (2000). The supreme court and local public opinion. *American Political Science Review*, 94(1):89–100
- Clark, T. S., Staton, J. K., Wang, Y., and Agichtein, E. (2018). Using twitter to study public discourse in the wake of judicial decisions: Public reactions to the supreme court's same-sex-marriage cases. *Journal of Law and Courts*, 6(1):93–126

Week 11, October 30 - Public Opinion and the Judiciary Pt 2

Readings:

- Gibson, J. L., Caldeira, G. A., and Spence, L. K. (2003). Measuring attitudes toward the united states supreme court. *American Journal of Political Science*, 47(2):354–367
- Caldeira, G. A. and Gibson, J. L. (1992). The etiology of public support for the supreme court. *American Journal of Political Science*, 36:635–664
- Gibson, J. L. and Nelson, M. J. (2015). Is the u.s. supreme court’s legitimacy grounded in performance satisfaction and ideology? *American Journal of Political Science*, 59(1):162–174
- Bartels, B. L. and Johnston, C. D. (2012). On the ideological foundations of supreme court legitimacy in the american public. *American Journal of Political Science*, 57:184–199
- Christenson, D. P. and Glick, D. M. (2018). Reassessing the supreme court: How decisions & negativity bias affect legitimacy. *Political Research Quarterly*
- Ramirez, M. D. (2008). Procedural perceptions and support for the us supreme court. *Political Psychology*, 29(5):675–698
- Zink, J. R. (2015). The dead hand of the past? toward an understanding of “constitutional veneration”. *Political Behavior*

Week 12, November 6 - Media and the Supreme Court

Readings:

- Slotnick, E. E. and Segal, J. A. (1994). Supreme court decided today..., or did it. *Judicature*, 78:89
- Strother, L. (2017). How expected political and legal impact drive media coverage of supreme court cases. *Political Communication*, 34(4):571–589
- Baird, V. A. and Gangl, A. (2006). Shattering the myth of legality: The impact of the media’s framing of supreme court procedures on perceptions of fairness. *Political Psychology*, 27(4):597–614
- Clark, T. S., Lax, J. R., and Rice, D. (2015). Measuring the political salience of supreme court cases. *Journal of Law and Courts*, 3(1):37–65
- Johnston, C. D. and Bartels, B. L. (2010). Sensationalism and sobriety differential media exposure and attitudes toward american courts. *Public Opinion Quarterly*, 72(2):260–285
- Gibson, J. L., Lodge, M., and Woodson, B. (2014). Losing, but accepting: Legitimacy, positivity theory, and the symbols of judicial authority. *Law & Social Review*, 48(4):837–866

Week 13, November 13 - Judicial Politics in the U.S. States

Readings:

- Brown, A. R. (2018). The role of constitutional features in judicial review. *State Politics & Policy Quarterly*, 18(4):351–370

- Miller, S. M., Ringsmuth, E. M., and Little, J. M. (2015). Pushing constitutional limits in the us states legislative professionalism and judicial review of state laws by the us supreme court. *State Politics & Policy Quarterly*, 15(4):476–491
- Cann, D. M. and Yates, J. (2008). Homegrown institutional legitimacy: Assessing citizens’ diffuse support for state courts. *American Politics Research*, 36:297–329
- Curry, T. A. and Hurwitz, M. S. (2016). Strategic retirements of elected and appointed justices: A hazard model approach. *The Journal of Politics*, 78(4):1061–1075
- Hall, M. E. and Windett, J. H. (2013). New data on state supreme court cases. *State Politics & Policy Quarterly*, 13(4):427–445
- Geyh, C. G. (2003). Why judicial elections stink. *Ohio State Law Journal*, 64:43:43–79
- Hall, M. G. and Bonneau, C. W. (2006). Does quality matter? challengers in state supreme court elections. *American Journal of Political Science*, 50:20–33
- Hall, M. G. and Bonneau, C. W. (2008). Mobilizing interest: The effects of money on citizen participation in state supreme court elections. *American Journal of Political Science*, 52:457–470
- Bonneau, C. W. and Cann, D. M. (2015). *Voters’ Verdicts: Citizens, Campaigns, and Institutions in State Supreme Court Elections*. University of Virginia Press
- Gibson, J. L. (2008). Challenges to the impartiality of state supreme courts: Legitimacy theory and “new-style” judicial campaigns. *American Political Science Review*, 101:59–75
- Hazelton, M. L., Montgomery, J. M., and Nyhan, B. (2016). Does public financing affect judicial behavior? evidence from the north carolina supreme court. *American Politics Research*, 44(4):587–617
- Canes-Wrone, B., Clark, T. S., and Kelly, J. P. (2014). Judicial selection and death penalty decisions. *American Political Science Review*, 108(1):23–39
- Caldarone, P. R., Canes-Wrone, B., and Clark, T. S. (2009). Partisan labels and democratic accountability: An analysis of state supreme court abortion decisions. *The Journal of Politics*, 72:560–573

Assignments:

- Research article draft due for peer-review

Week 14, November 20 - Student Presentations

Assignments:

- Student presentations. Upload your slides to the course Dropbox before noon.
- Peer-reviews due

December 9th — Research articles due. Place a copy in my mailbox by 2pm. Upload replication materials to the course Dropbox folder by 2pm.

Academic Integrity:

I strictly enforce all of the policies regarding academic integrity such as cheating and plagiarism as determined by University of Houston. A copy of these regulations is available through the University's [website](#). Ignorance of these policies is not an excuse for violations.

Disabilities:

The University of Houston is committed to providing reasonable accommodations for eligible students with disabilities, including students who have learning disabilities, health impairments, psychiatric disabilities, and/or other disabilities. If you believe you have a disability that requires accommodation, please contact the Center for Students with Disabilities (CSD) at 713-743-5400 voice or 713-749-1527 (TTY).

Technology:

Many studies have demonstrated that using electronic device (laptops, tablets, etc) to take notes has a negative influence on student performance. Further, studies show that students who do not use electronic devices but sit near those who do have negative outcomes as well. For this reason, I **highly recommend but do not ban** the use of electronic devices for note taking. If you do plan to use an electronic device, I do ask that you sit in a position to minimize the number of students potentially distracted by its use.

Recording lectures is without permission is **strictly prohibited**—this includes video, audio, or photo recording. If you are caught recording lecture, I will ask you to leave class and you will be marked absent.

Last updated August 19, 2019