PSCI 5302: LAW AND THE POLICY PROCESS

Instructor: Dr. Banks Miller
Office Hours: GR 3.230 (Monday 9-11; Wednesday 5-6)
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This course examines the stages of the judicial processes that precede and follow decision making: litigation, the substance of judicial policies and the responses to those policies. It also considers lawyers as participants in the judicial process and the process of selecting and confirming judges. The focus is on American courts, although we will also discuss courts in other countries throughout the semester. No prior knowledge of the judicial process is assumed, but some background is helpful. If you are not familiar with the workings of the courts, it may be helpful to read parts of a basic book on the judicial process. Some possibilities include: Baum, American Courts; Carp and Stidham, The Judicial Process in America; Glick, Courts, Politics and Justice; or Murphy, Pritchett and Epstein, Courts, Judges and Politics.

This is a graduate level course; please ensure that you meet all of the prerequisites for enrollment in this course.

The basic outline of the course is as follows:

A. Participants in the Judicial Process
   1. Lawyers (Week 1)
   2. Selection of Judges
      a. State Court Judicial Selection (Week 2)
      b. Federal Court Judicial Selection (Week 3)

B. Litigation
   1. Decisions to Litigate (Week 4)
   2. Interest Groups and Political Litigation
      a. General Theories of Interest Group Litigation (Week 5)
      b. Interest Groups and Rights (Week 6)

C. Policy Outputs
   1. Outcomes of Litigation/Winners and Losers (Week 7)
   2. Winners and Losers in the Supreme Court (Week 8)
   3. Criminal Sentencing (Week 9)

D. Responses to Court Policies
   1. Coordinate Courts/Lower Courts (Week 10)
   2. Administrative Agencies (Week 11)
   3. The Other Branches/Public Opinion (Week 12)
   4. Societal Impact (Week 14)
Student Responsibilities:

1. Attendance and Participation: regular attendance and thorough preparation are mandatory in this graduate-level seminar. In addition, each student will choose two topics and will be responsible for facilitating class discussion for those weeks. We will assign discussion leaders in the first class session. Facilitating class discussion will, at a minimum, require bringing several questions to class to stimulate discussion. Class participation and leading class discussions will account for 25% of your grade in the course.

2. Short Papers: three short papers, each keyed to one of the subjects that we take up in the readings will account for 75% of your grade. One paper must be submitted before week 7 and one must be submitted after week 7. The third paper may be submitted at anytime. Papers are due at the beginning of class. These papers can take any of several forms, including an outline of a research design to study an issue, a critique of a particular article or set of articles, or anything else that makes use of and engages the readings on a subject. The papers should be three to five pages in length, double-spaced. At least one of the papers should be a critique and one should be a research design. You may write your papers the same weeks that you lead the class discussions.

Readings: Readings in this class are primarily taken from journal articles. In addition, two books are required. The first is Charles Epp’s The Rights Revolution: Lawyers, Activists and Supreme Courts in Comparative Perspective. We will take up this book in week 6 of the semester. The other required book is Gerald Rosenberg’s The Hollow Hope: Can Courts Bring About Social Change (2nd ed.)? We will take up this book in week 14 of the semester. Please order these books from Amazon or another source so that you will receive them in sufficient time to have read them for class. I have reserved copies of the Epp book at the campus bookstore, but you will need to order the Rosenberg book online in time to have read it by Week 14. Journal articles that are not available online through JSTOR or another source will be made available.

A. Participants in the Judicial Process

1. Lawyers (Week 1)


2. **State Court Judicial Selection (Week 2)**


3. **Federal Court Judicial Selection (Week 3)**


**B. Litigation**

4. **Decisions to Litigate (Week 4)**


5. **General Theories of Interest Group Litigation (Week 5)**


6. **Interest Group Litigation and Rights (Week 6)**


C. **Policy Outputs**

7. **Outcomes of Litigation/Winners and Losers (Week 7)**


8. **Winners and Losers in the Supreme Court and State Supreme Courts (Week 8)**


9. Criminal Sentencing (Week 9)


D. Responses to Court Policies

10. Coordinate Courts & Lower Courts (Week 10)

*Coordinate Courts*


*Lower Courts*


12. Administrative Agencies (Week 11)


13. The Other Branches/Public Opinion (Week 12)


14. Thanksgiving Holiday—No Class (Week 13)

15. Societal Impact (Week 14)


2. Rosenberg’s response to critics of the first edition: *Ideological Preferences and Hollow Hopes*