POLS 385: Comparative Law and Politics

Emory University
Fall 2014

Meeting room: Tarbutton 313
Meeting time: Tuesday/Thursday, 4:00pm–5:15pm

Instructor: Jeffrey K. Staton
Email: jeffrey.staton@emory.edu
Phone: 404-727-6559
Office: Tarbutton 111
Office hours: Tuesday, 10:00am–11:00am or by appointment

Course Description

The goal of this course is to expose students to the literature on comparative law and politics. The first third of the class focuses on the nature and ends of law, the world’s legal traditions, and the judicialization of politics. The second third of the class considers the roles courts are believed to play in democracy and dictatorship. The last third considers the possibility for powerful courts and the conditions under which they are constructed and maintained. The course is not designed to be a comprehensive review of the literature. For example, key material in law and development, the globalization of law and law and psychology are regrettably missing.

The primary question around which the course revolves is this. Should political scientists care about the literature on law and courts? To provide context within which we can answer that question, the course begins by considering important lines of inquiry in political science. How is political order constructed and maintained? Under what conditions is limited governance possible? Under what conditions can elections produce democratic outcomes? By the end of the semester, our goal will be to identify the ways in which our answers to these questions ought to include a judicial component, if there are any. I mean this seriously. As much as the problems we will consider interest me personally, as much as they interest those who work on problems of law and politics, they need not warrant general interest in the discipline. Let’s put it this way. Do courts affect political processes? Of course they do. But the answer is true and trivial. The key question is familiar if we consider our interest in gaining understanding of the political world through modeling politics. Will we come too badly unstuck if we pursue answers to general political questions assuming that courts are irrelevant? That is the question we need to answer.

Grading

Your final grade is a weighted average of the following components:

Weekly reactions (25%) Each week, you are responsible for writing a short (400 words or so) reaction to the readings we will cover. You should post your remarks to the reactions wiki, which is located on the Blackboard site for the class. You must post your remarks by 8:00 pm
Tuesday night, so that we all have time to look over your reactions before class Wednesday morning.

**Data report (25% )** You will pick a concept (or concepts) that plays a critical role in models of law and politics. You will investigate the availability of data that purportedly measures that concept and provide a report summarizing your findings. The report should summarize the concept and provide a comprehensive review of existing data sources. You should identify questions that might be answered with the data you summarize and highlight opportunities for building new measures, if necessary.

**Research paper and peer review (40% )** The Paper: You will write a research paper that is (at least) suitable for presentation at a professional conference. The paper should address an important question in law and politics. Your research design can address theoretical or empirical issues in previous research or propose a novel contribution to a problem. There is no length requirement. Write a paper. We will discuss norms of paper writing. To help you, should you wish to write an empirical paper, I am making two new data sets in comparative politics available to you. One is associated with the Comparative Law Project and the other with the Varieties of Democracy Project (VDem). There are rules associated with using these data. For example, VDem data are not publicly available yet. Any use of those data will be understood as work related to a project on which I am the principal investigator. We will discuss both VDem and CompLaw in class.

**Deadlines:** In March, you will turn in a one page research proposal, which can be in outline form. You will turn in a first draft in early April and a final draft at the end of the semester.

**Peer Review** You will receive comments along the way from your peers and me. Our class is paired with a similar class at Washington University in St. Louis, taught by Professor Matthew Gabel. You will be part of a group of students comprised of Emory and Wash U students. Each member of the group will provide comments to every other member concerning a one page research proposal or outline. You will then be paired with a member of the group and asked to give careful comments on the first and final drafts of your colleague’s paper.

**Participation (10% )** Active participation is essential to graduate seminars. I expect you to be present. I expect you to be prepared.

**Readings**

The readings for this class are either available on the web or from the course reserve. Check the books carefully. Our library has online access to many books. If you cannot find a reading, let me know. You will see that there are some weeks in which the reading is, let’s say, excessive. In such cases, and when I want to cover a reading in great detail, I will let you know.

**Incomplete Grades**

No incomplete grades will be given unless there is an agreement between the instructor and the student prior to the end of the course. The instructor retains the right to determine legitimate reasons for an incomplete grade.
Integrity of Scholarship

I will follow the guidelines established by Emory College, which can be found at http://www.college.emory.edu/current/standards/honor_code.html. In short, don't cheat. The benefits are small. Even if the probability of getting caught is tiny, the costs of getting caught are huge.

Students with Disabilities

Students requiring any type of academic accommodation should consult with the Office of Disability Services (http://www.ods.emory.edu/ or 404-727-6016) and discuss the issue with the instructor within the first week of class.

Class schedule

January 15: Course Introduction


Notes:

Przeworski and Maravall: Read introduction
North, Wallis and Weingast: Read introduction
Powell: Read pp. 1-32

January 22: Law and the Rule of Law


**Notes:**

Pound: Read “The End of Law.”

**January 29: Legal Traditions**


**Notes:**

Merryman, selected passages TBA

**February 5: Constitutions**


**Notes:**

Dorsen, Read 16-47.

**February 12: The Judicialization of Politics**


Kim Lane Scheppele and Adam Czarnota. Democracy by judiciary: Or, why courts can be more democratic than parliaments. *Rethinking the rule of law after communism*, 2005.


February 19: Courts: What are they good for?


February 26: Courts: Seriously, what are they good for?


March 5: Authoritarian Courts: What are THEY good for?


Notes:

**Research proposal due**

**March 12: No class - Spring Break**

**March 19: Interpretative Challenges**


**March 26: Modeling Law**


April 2: Judicial Independence and Judicial Power


Notes:

Data report due

April 9: The Context of Power


Notes:

**First draft of paper due**

Ginsburg and Vanberg, Read the theory chapters

Clark and Helmke, read TBA

**April 16: The Construction of Power**


Notes:

Staton, Read Chapters 2, 3 and 5

**April 23: Wrap Up** So, should political scientists pay much attention to law and politics? More practically, should core graduate syllabi in comparative politics include a law and politics component? If so, what should we be reading?

**May 1: Final research paper due**