Political Science 215: Courts, Law and Politics

Wellesley College, Fall 2007

Professor Nancy Scherer
nscherer@wellesley.edu
283-2209

Office Hours: Tues 11-2
or by appointment
Office: Pendleton 247

Course Description

This course is an introduction to understanding how the judicial system operates and the key players which operate within the judicial system. In the first half of the semester, we will focus principally on judges, including the selection of judges, judicial decision-making and judicial policy-making. We will also focus on distinctions between the state and federal court systems, as well as appellate and trial courts. In the second half of the semester we will turn our attention to non-judicial actors who are engaged with the legal system: every-day citizens, law students, lawyers and juries. Just to be clear, unlike most law-related classes at the undergraduate level, this class does not focus on case law, but rather, on how the judicial branch of government fits into the larger system of American politics. We will, however, cover some of the most important “political” cases rendered in American history, including Marbury v. Madison, Roe v. Wade and Lawrence v. Texas.

Class Format

This class will meet twice a week; the class meetings will consist of a combination of lectures, discussion and student participation in a series of debates. It is expected that you will have read the reading material prior to each class meeting so that you can actively participate in discussions.

Contacting the Professor

I encourage students to attend my office hours to discuss not only issues arising in this class, but more generally, questions about law school and the practice of law. I am happy to share insights about my own law school experience as well as my experience as a litigator in a big New York City law firm. You should also feel free to e-mail me with questions and concerns. If you cannot make my office hours, please e-mail me to set up an appointment or simply stop by my office (my door is almost always open). However, I want to warn students that I check my e-mail and my voice mail very irregularly in the evenings or on weekends, so please do not be offended if I do not respond during my off-hours.

Policy on Extensions

If a religious observance will limit you from sticking to the class schedule, you MUST see me at the beginning of the semester. If you want other extensions, please do not ask me if you can have an extension. Instead, follow the policy below.
**Excused extensions**

There are only two contingencies which are acceptable for the excused postponement of a test or final paper: personal illness or family crisis. If either of these contingencies prevents you from taking an exam or turning in the final paper, you are entitled to an excused extension. The following steps must be taken:

1. PRIOR to the class period in which the work is due or the exam is to be given, you must notify me that you will not be present at the exam or that you cannot submit the assignment. This notification must be made before the actual class begins.

2. You MUST contact me by 5 pm of the following day to arrange when the work will be completed.

3. You MUST submit to me at the time of your make-up exam, or at the time your final paper is submitted, a signed, written statement indicating that you are acting in accord with Wellesley’s Honor Code. The signed statement may be brief and needs only to indicate; (1) that you are requesting an excused extension; (2) that the reason for the extension is consistent with the criteria described above; and (3) that you are acting in accord with Wellesley’s honor code.

**Unexcused Extensions**

I will assume that any work submitted without a written statement is an unexcused extension, and will be subject to the following penalties:

1. Missed exams must be made up within one week of the date of the exam. The exam will be reduced by a third of a letter grade for each late day (A to A- the first day, A- to B+ the second day, etc). After one week, the student will receive a zero.

2. If you turn the final paper in late, your overall grade on the paper will be docked a third of a letter grade for each day late.

**Students with Disabilities**

Students with disabilities who are taking this course and who need disability-related accommodations are encouraged to work with Jim Wice, the Director of Disability Services to arrange these accommodations. His office is located in the Pforzheimer Learning & Teaching center in Clapp Library.

**Religious Observances**

I am, of course, glad to accommodate any student’s need to miss a class because of a religious observance. Please see me at the beginning of the semester so that we can make any necessary arrangements for missed class time. ALSO BE ADVISED THAT, DUE TO MY OWN RELIGIOUS OBSERVANCE, WE WILL NOT HAVE CLASS ON THURSDAY,
Course Requirements and Grading

This course has a somewhat unusual feature: you get to choose what work you will do in the class and how you will be graded. You have two options:

Track I is the "exam" option. It requires you to take three timed closed-book exams--two midterms (25% each) and a final (35%). Class participation also counts for 15% of your grade.

Track II is the "paper and presentation" option for those students who don't love exams and would rather write papers and do presentations. You will take the first midterm along with Track I students (25%), but instead of taking two more exams, you will write one 7-page research paper and one 15-page research paper, each based on course themes. The first paper will count 15% and I will give students the topic. The second paper topic will be chosen by the student in consultation with the professor and will count for 25% of the grade. You will also do one in-class Powerpoint presentation (about 15 minutes long) on the topic of your second paper which counts for 20% of your grade. Class participation also counts for 15% of your grade. Tutors will be available to help Track II students with their oral presentations and papers, and I will also be available for individual help.

Track II probably involves more work than the exam option, but some students appreciate the opportunity to conduct research, write papers, and make presentations rather than simply answering exam questions.

Students will be asked to pick between the Track I and Track II options after I turn back the first midterm exam. That way, you can see how you did on the first exam before choosing your track.

Participation in Discussions about Current Events

A primary goal of this course is to encourage students to pay attention to current events specifically as it relates to the state and federal judicial systems. To this end, we will devote the first part of each Monday morning class discussing current news stories on courts. These are informal discussions, but all students are expected to participate in them throughout the semester.

To this end, you will be asked to subscribe to The Brennan Center Fair Courts E-lert service. This weekly e-mail service summarizes news stories and editorials related to the independence of judges and the courts, including material attacking, defending, and concerning the judiciary. You can subscribe to the service by going to the Brennan center’s web site at: www.brennancenter.org.

You should also be reading either the New York Times or the Washington Post for additional coverage of news stories on the judicial branch of government, including Supreme Court news. They are available in hard copy or on-line: www.nytimes.com and www.washingtonpost.com.

Participation in Other Class Discussions
Students will also be expected to participate in lectures and other class discussions concerning the readings. This includes asking questions when you are perplexed, and participating in debate and discussion of readings. Students are encouraged to engage with me, the readings and each other in discussion. However, an important part of class discussion is also being a good listener – being attentive to, respectful of, and sensitive to the thoughts of your peers. Obviously, participating in class means you must regularly attend class and be prepared by doing the readings.

**Midterm Exams and Final Exam**
Each midterm will be composed of five short identifications, in which you will be asked to define and explain the significance of terms introduced in the readings and lectures; one essay question; and one question on current events on courts. The final will be comprehensive and will feature short identifications; two essays; and questions on current events. Current events questions which will count for about 10% of your grade on each exam.

The exams aren't easy! However, for each exam a list of identifications will be handed out in advance. As you will see, the list is very comprehensive, covering just about everything in the course. All identification questions will be drawn from this list.

**Required Books for Purchase from the Bookstore**


**E-Reserve**
I have opened a course conference for our class (Pol 215). I have placed the assigned articles on e-reserve. Those I was unable to put on e-reserve (because of copyright restrictions) will be passed out in class or posted as an attachment on the course conference. I have noted on the syllabus which articles are on e-reserve.

**Class Reading Assignments**

Class 1 (Sept. 6):
Introduction

I. Courts in Constitutional Democracies

Class 2 (Sept. 10):
CJP, pp. 44-52, 61-70

II. Judicial Organization
Classes 3-4 (Sept. 17, 20):
CJP, pp. 77-100

III: Judicial Selection and Confirmation

A. State Court Selection Methods

Class 5 (Sept. 24)
CJP, pp. 152-155, 205-211


B. Federal Court Selection/Confirmation

Classes 6-7 (Sept. 27-October 1):
CJP, pp. 141-152

Class 8 (Oct. 4)
CJP, pp. 193-198


Class 9 (Oct. 11):
Review for the exam/video on Justice Thomas confirmation

Class 10 (Oct. 15):

Exam No. 1

IV: The Process of Judicial Decision Making

Class 11 (Oct. 18)
CJP, pp. 617-644
V: Judicial Decision Making

A. The Legal Model: Originalism versus Living Constitutionalism

Classes 12-13 (Oct. 22, 25):

CJP, pp. 539-557, 600-605

*Lawrence v. Texas*, decisions of Justices Kennedy and Scalia (e-reserve)
*Roe v. Wade*, decisions of Justices Brennan and Rehnquist (e-reserve)

B. The Attitudinal Model

Classes 14-15 (Oct. 29, Nov. 1):


VI: Countermajoritarian Difficulties and Implementation

Class 16 (Nov. 5):

CJP, pp. 727-751

Class 17 (Nov. 8):

Review for Exam

Class 18 (Nov. 12)

*Exam No. 2*

Topic VII: Law’s Place in Society among Average Citizens

Class 19 (Nov. 15):

*The Common Place of Law*, article version, Susan Silbey and Patricia Ewick(e-reserve)
Topic VIII: Law Students, Lawyers and Juries

A. Law Students

Class 20 (Nov. 19):

* Becoming Gentlemen. Entire text.

B. Lawyers

Classes 21-22 (Nov. 26, Nov. 29):

* A Civil Action (watch and discuss movie)

C. Juries

Class 23 (Dec. 3):

* CJP, pp. 384-396, 419-423

Class 24 (Dec. 6):

Review

Class 25 (Dec. 10):

Powerpoint Presentations