
PLSC 204
Courts, Judges, and Controversies
Yale University Department of Political Science
Fall 2013

Tuesdays, 3:30 to 5:20
77 Prospect A001

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Office Hours: Mondays, 9:00 to 11:00
ISPS D231

Introduction

Does affirmative action help or hurt minority students? Does electing state court judges distort their impartiality? Are Supreme Court justices' decisions political? Are judges racially biased in sentencing; are police officers racially biased in arrest? This course explores these and other controversial topics surrounding courts, judges, and the decisions they make. In studying these questions, we will evaluate the state of the American judiciary and justice system. (For the most part we will study American courts, but occasionally we will delve into other countries' judiciaries as well.)

To understand these topics, we will read papers published in the past decade in leading social science journals; therefore, you will learn to read and critique contemporary empirical social science. This includes understanding regression analysis and learning how researchers use statistics to show causality. You do not need to know statistics to succeed in this endeavor, but you must be willing to think carefully and deeply about each of the papers we read. By the end of the course, you will have the skills to understand statistical analysis and to identify strengths and weaknesses in statistical arguments—and, of course, you will have a more thorough understanding of the complexities surrounding judiciaries and judicial decision-making.

Course Requirements

Your grade in this class will be based on the following:

- 36%: Weekly Reading Responses (4% each)
- 30%: Two extended reading responses (15% each)
- 15% Take-home final exam
- 19%: Participation

Reading Responses

Each week, you will write a response to the assigned readings. (These should be about two pages, double-spaced). The readings for this class are difficult; this response paper is intended to help guide your reading and ensure you have understood each paper's contribution, strengths, and weaknesses. You are encouraged to talk with your classmates

about the readings before writing your responses, but you must each write your own response. (Please familiarize yourself with Yale's academic honesty policy by visiting <http://yalecollege.yale.edu/content/academic-dishonesty>). Your response should state, for each paper we read: the author's question, what data the author used, any important assumptions the author made, and the answer the author reached. We will discuss the response papers in more detail on the first day of class.

Reading responses are due every Monday at 3:30pm.

Extended Reading Responses

Twice throughout the semester, you will write an extended reading response to one week's controversy. An extended reading response will explore the readings in great depth, and may also discuss relevant work that we did not read in class. The paper will also consider what we know so far about the controversy and what we do not yet know, and will discuss what research is a useful next step. These papers should each be about 7 to 8 pages, double-spaced.

The first extended reading response is due Monday, October 28 at 9am. The second extended reading response is due Monday, December 2 at 9am.

Final Exam

The final exam will be a cumulative, open book, take home essay test.

Class Schedule and Readings

Note that this schedule is subject to change, though you will be notified of any changes well in advance.

Overview

- (1) 9/3: Introduction
- (2) 9/10: How to read an empirical paper and a primer on courts
- (3) 9/17: Are Supreme Court justices political?
- (4) 9/24: Race, gender, and judging
- (5) 10/1: Racial bias and criminal justice, Part I
- (6) 10/8: Racial bias and criminal justice, Part II
- (7) 10/15: Affirmative action
- (8) 10/22: Judicial bias
- 10/28: FIRST PAPER DUE**
- (9) 10/29: Recap and review, and in-class presentations.
- (10) 11/5: Judicial elections
- (11) 11/12: Courts and social change
- (12) 11/19: The Supreme Court and Congress
- 12/2: SECOND PAPER DUE**
- (13) 12/3: Recap and review, and in-class presentations.

Section I: Introduction

Week 1. Introduction

- No reading

Week 2. How to read an empirical paper and a primer on courts

*NOTE: No response paper this week

- Shai Danziger, Jonathan Levav, and Liora Avnaim-Pesso. "Extraneous Factors in Judicial Decisions." *Proceedings of the National Academy of Sciences* 108(17): 6889-6892.
- William Miller. *A Primer on American Courts*. 2005. Pearson. Chapters 3-5 (pages 55-142).
- Cameron, Charles. "What is Political Science?" In *A Quantitative Tour of the Social Sciences*, Andrew Gelman and Jeronimo Cortina, Eds. Pages 207-222.
- Freedman, David A. "Statistical Models: Theory and Practice." Preface (pages IX-X) and Chapter 1 (pages 1-17).

Week 3. Are Supreme Court justices political?

- Posner, Richard A. 2005. "Foreword: A Political Court." *Harvard Law Review* 119, 31-102.
- Segal, Jeffrey A. and Harold Spaeth. *The Supreme Court and the Attitudinal Model Revisited*. Introduction (pages 1-12).
- George, Tracey E., and Lee Epstein. "On the Nature of Supreme Court Decision Making." 1992. *American Political Science Review* 86(2): 323-337.

Section II: Race and gender in the courts

Week 4. Race, Gender, and Judging

- Kastellec, Jonathan P. 2013. "Racial Diversity and Judicial Influence on Appellate Courts." *American Journal of Political Science* 57(1): 167-183.
- Sen, Maya. Is Justice Really Blind? Race and Appellate Review in U.S. Courts.
- Sotomayor, Sonia. "A Latina Judge's Voice." May 14, 2009. *The New York Times*. Available at <http://www.nytimes.com/2009/05/15/us/politics/15judge.text.html>.
- *Recommended*: Boyd, Christina L., Lee Epstein, and Andrew D. Martin. 2010. "Untangling the Causal Effects of Sex on Judging." *American Journal of Political Science* 54(2): 389-411.

Week 5. Racial bias and the death penalty, Part I

- Baldus, David C., Charles Pulaski and George Woodworth. 1983. "Comparative Review of Death Sentences: An Empirical Study of the Georgia Experience." *Journal of Criminal Law and Criminology* 74(3): 661-753.
- *McCleskey v. Kemp*, 481 U.S. 279 (1987)

Week 6. Racial bias and the death penalty, Part II

*This week's readings are particularly difficult. Please start your reading early.

- Alberto Alesina and Eliana La Ferrara. A Test of Racial Bias in Capital Sentencing.
- Knowles, John, Nicola Persico, and Petra Todd. 2001. "Racial Bias in Motor Vehicle Searches: Theory and Evidence." *Journal of Political Economy* 109(1): 203-229.

Week 7. Affirmative action

*This week's readings are particularly difficult. This piece in the *New York Times* might be a helpful introduction—it summarizes some of the arguments.

http://www.nytimes.com/2013/03/17/opinion/sunday/does-affirmative-action-do-what-it-should.html?_r=0

- Sander, Richard H. 2004. "A Systemic Analysis of Affirmative Action in American Law Schools." *Stanford Law Review* 57: 367-483.
- Ho, Dan. 2005. "Why Affirmative Action Does Not Cause Black Students To Fail the Bar." *Yale Law Journal* 114: 1997-2004.
- Newspaper articles and/or opinions from Texas 2012 case TO BE ANNOUNCED.

Week 8. Judicial bias

- Moses Shayo and Asaf Zussman. 2013. "Judicial Ingroup Bias in the Shadow of Terrorism." *Quarterly Journal of Economics* 126(3): 1447-1484.
- Oren Gazal-Ayal and Raanan Sulitzeanu-Kenan. 2010. "Let My People Go: Ethnic In-Group Bias in Judicial Decisions—Evidence from a Randomized Natural Experiment." *Journal of Empirical Legal Studies* 7(3): 403-428.

Week 9. Recap and review

- No readings. We will discuss your extended reading responses.

Section III: Institutional Design

Week 10. Judicial elections

- Huber, Gregory A. and Sanford C. Gordon. 2004. "Accountability and Coercion: Is Justice Blind when it Runs for Office?" *American Journal of Political Science* 48: 247-263.
- Caldarone, Richard, Brandice Canes-Wrone, and Tom S. Clark. 2009. "Partisan Signals and Democratic Accountability: An Analysis of State Supreme Court Abortion Decisions." *Journal of Politics* 29(2): 560-573.

Week 11. Courts and social change

- Rosenberg, Gerald. *The Hollow Hope*. Part 2: Abortion and Women's Rights. Pages 173-268.
- Articles and/or opinions from Prop 8 and DOMA cases. TO BE ANNOUNCED.

Week 12. The Supreme Court and Congress

- Whittington, Keith. 2005. "Interpose Your Friendly Hand." *American Political Science Review* 99(4): 583-596.
- Clark, Tom. 2009. "The Separation of Powers, Court-curbing and Judicial Legitimacy." *American Journal of Political Science* 53(4): 971-989.
- Harvey, Anna, and Barry Friedman. 2006. "Pulling Punches: Congressional Constraints on the Supreme Court's Rulings, 1987-2000." *Legislative Studies Quarterly* 31(4): 533-562.
- *Recommended*: Miller, Kenneth. *Direct Democracy and the Courts*.

Week 13. Recap and review.

- No readings. We will discuss your extended reading responses.