PS 275: Legal Process: An Introduction to the American Judiciary

Professor Alison Gash

University of Oregon

gash@uoregon.edu

Summer 2018 DRAFT SYLLABUS

This class explores the nature of the American judiciary—it's structure, its players and its impact on American public policy. We will start from the premise that the American judicial system displays a unique set of characteristics, specifically a focus on what some scholars refer to as “adversarial legalism.” During the first half of the class we will analyze the components of the American judicial system. How did American law develop? What is the role of law in American culture? What contributions have lower courts, state courts and the Supreme Court made to American public policy and the functioning of government? What is the impact of professional legal culture on the practice of law? How do plaintiffs experience the American legal system? The second half of the course explores the role of the courts in adjudicating over issues regarding civil rights, civil justice, criminal rights, and politics.

Class will be a mixture of lecture and discussion. Students are expected to attend and to be prepared to contribute to class discussions. Grades will be assessed according to the following:

- Class participation: 10%
  - Attendance
  - Participation
Current Events Assignments

- Weekly quiz: 15% each (3 total) (every Thursday)
- Simulation: 20%
- Final 7-page Analytical Paper: 25% (Due Last Day of Class on Canvas)

Current Events Assignment: Every other day beginning on Monday of Week 2 students will be required to come prepared to discuss a current news story pertaining to an issue that will be discussed during that week’s classes. I will call on these students to provide a brief synopsis of the story and its relevance to the day’s topic. We will then open the class up to discussion about the story. Students with last names A-M will present on Tuesdays and Thursdays. Students N-Z will present on Mondays and Wednesdays.

Simulation: Students will work in groups of 6-8 to present how the courts have shaped a particular policy arena. Students will present their findings during the last week of class. Presentations will be graded on substantive accuracy and comprehensiveness as well as creativity. Students will be graded individually based on their presentations and the work they did within their group. Each student in the group will be asked to submit an evaluation of each member of their team.

Final Paper: Students will use class discussions and readings to respond to a specific prompt on the checks and balances role of the courts in American politics. Not outside research is needed for this paper.

Policy on Academic Dishonesty and Plagiarism

Plagiarism and other forms of academic dishonesty are not tolerated in this class
and will result in an F on the assignment and, potentially, the course. Any test, paper, or report submitted by you that bears your name is presumed to be your own original work that has not previously been submitted for credit in another course unless you have obtained my prior written approval.

In all of your assignments, including your homework or drafts of papers, you may use words or ideas written by other individuals in publications, Web sites, or other sources, but only with proper attribution. "Proper attribution" means that you have fully identified the original source and extent of your use of the words or ideas of others that you reproduce in your work for this course, usually in the form of a footnote or parenthesis. However, the bulk of your written work should be your own original thoughts. Published or web-based information should only be used to supplement your own ideas.

As a general rule, if you are citing from a published source or from a Web site and the quotation is short (up to a sentence or two), place it in quotation marks; if you employ a longer passage from a publication or Web site, please indent it and use single spacing. In both cases, be sure to cite the original source in a footnote or in parentheses.

Be warned, I conduct periodic web searches for language from student papers. If you have used language from publications or websites without giving them proper attribution I will find out.

**Handing in Assignments**

Instructions for handing in assignments will be included on all written assignments and exams. Students are expected to hand in their assignments on time and in accordance with the instructions provided, unless alternate arrangements have been made prior to the assignment’s due date. Students will lose a half grade on the assignment each day that the assignment is late.
Grading Disputes

If you want to dispute a grade on a paper or exam, please submit *in writing* a description of your concerns at least 24 hours after you have received the grade in question. The 24 hours should be used as a cooling off period. Please note, however, that if I review your work, I will be reviewing the entire exam or paper. This could result in a lower grade.

Receiving an Incomplete

In general incompletes will only be permitted under extenuating circumstances (health, family issues, emergency). Students who have outstanding assignments at the time that grades are due and who have not received preapproval for an incomplete will receive an “F” for the assignments they have not completed. In order to receive a passing grade in the class you must hand in all assignments.

Grading Policy

The course follows the standard grading policies established by the Department of Political Science which can be found at http://polisci.uoregon.edu/acrobat/PS%20Grading%20Standards%202012.pdf

Learning Outcomes: The goal of the course is to help students build a basic understanding of the ways in which American legal institutions influence American public policy. Students who complete the coursework will gain an understanding of the workings of American political systems at the local, state and national levels and across varying institutional arrangements. They will be introduced—through the lens of American legal institutions—to significant political concepts such as justice,
natural law and obligation. Finally, students will gain critical skills in identifying, describing and utilizing facts and will develop fundamentals in analysis and argumentation.

Reading Assignments

All readings are located on Canvas through the syllabus portal.

Creating Law

8/22: American Exceptionalism and the Development of American Law

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Reading Assignments

Creating Law

8/22: American Exceptionalism and the Development of American Law

8/23: How Government Structures Law

Federalist 78

Marbury v. Madison


Melnick, Between the Lines: Chapter One, 3-22.
**Checks and Balances**

**8/24: Courts**

Baum, Chapter 2.


**8/28: Courts**

Barnes and Miller: *Making Policy, Making Law*, excerpts

**8/29: Lawyers**

Below the Radar, excerpts

TBD

**8/30: Judges**

Atiyah and Summers, “Judges”


**Social Compass**

**8/31:**

Rosenberg, “The Impact of Courts on American Life” in *The Judicial Branch*. 
McCann “Reform Litigation on Trial,” *Law and Social Inquiry*, Vol. 17, No. 4, 1992 (excerpts)


9/4:   NO CLASS. LABOR DAY

*Law in Practice*

9/5: Politics

*Citizens United* (readings from SCOTUSBlog)

*Shelby County* (excerpt)

Silverstein, *Law’s Allure*, excerpts

Barnes and Burke, *How Policy Shapes Politics*

9/6: Free Speech

Schenk v. United States (1919)

Brandenburg v. Ohio (1969)

Matal v. Tam (2017)

9/7: Civil Rights

Friedman, *Chapter 10*

*Grutter v. Bollinger* (excerpts)
Fisher v. University of Texas at Austin (readings from SCOTUSBlog)

9/11: Civil Rights (Simulations)

Obergefell v. Hodges (readings from SCOTUSBlog)

Hobby Lobby

9/12: Civil Justice (Simulations)

Friedman, Chapter 11.

Kagan, Adversarial Legalism, excerpt

9/13: Criminal Justice (Simulations)

Friedman, Chapter 8.

34. Langbein, Money Talks, Clients Walk, “Newsweek, April 17, 1995, 32-34.

9/14: Death Penalty (Simulations)

Furman v. Georgia 408 U.S. 238 (1972)


Judge Reinhardt, The Supreme Court, the Death Penalty, and the Harris Case, 102 Yale L.J. 205 1992-1993

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