Background:

This is a seminar on the comparative study of courts, judicial process, and judicial behavior, and the role of courts in politics. It will include an intensive examination of a broad spectrum of recent and classical research on courts. Students will be expected to write a major, original research paper on comparative courts but will not have a final exam. It is assumed that students will enter the course with a substantial substantive and methodological background for the study of the courts. It would be helpful for students to have had either a general proseminar in American Politics or in Comparative Politics. For those without an adequate background in the study of the courts, the following background reading is suggested:

Segal & Spaeth, *The Supreme Court and the Attitudinal Model Revisited*

Orientation and Goals

The goals for this semester will include:

a. to provide an overview of the most important scholarship on the behavior of judges and on courts as political and legal institutions. This overview should provide a good background on the courts for those preparing for comprehensive exams in either Comparative Politics or American politics and to teach an undergraduate course on the courts.

b. to sharpen the analytical skills of students of American and Comparative politics.

c. to prepare students to do empirical research on courts from a cross-national perspective.

In order to accomplish these goals, students will be expected to:

1. read and critique the written work of the other students in the class.
2. come to each class prepared to discuss and critically analyze the assigned reading for the class. Each student's preparation for each class should be based on the assumption that they will be responsible for leading and stimulating the class discussion of the most significant and interesting topics from the assigned reading. Every student will be expected to participate in discussion every class.
3. Write a research paper.
4. Participate in relevant professional activities of the department.
5. Write a series of four short (about 2 pages each) papers on the week's assigned reading. Each paper will be due at least 25 hours before the class at which the readings will be discussed. Each paper should provide a synthesis (not a summary) of the week's reading (including, for example, how all or part of the readings fit together or complement a previous week's reading), a critical review of the shortcomings of the readings - especially methodological problems, thoughts interesting gaps in the readings - interesting questions not adequately addressed, etc, and interesting hypotheses or ideas for future research.
Required Reading - Books Available in Bookstore

Baum, the Puzzle of Judicial Behavior (Michigan, 1997)
Baum, Judges and their Audiences (Princeton, 2006)
Flemming, Tournament of Appeals (UBC Press, 2004)
Greene, et. al., Final Appeal: Decision Making in the Canadian Courts of Appeal (Lorimer, 1998)
Haynie, Judging in Black & White (Lang, 2003)
Jacob, et. al., Courts, Law and Politics in Comparative Perspective (Yale, 1996)
Malleson & Russell, Appointing Judges in an Age of Judicial Power (University of Toronto 2006)
Widner, Building the Rule of Law (Norton, 2001)

Other Useful Books - left on Shelves - I will put as much of the Required Reading as Possible on Blackboard as pdf files

Becker, Comparative Judicial Politics (1970)
Carter, Reason in Law
Coffin, On Appeal (1994)
Coffin, Ways of a Judge
Epstein & Knight, The Choices Justices Make (1998)
Glick, Supreme Courts in State Politics
Holland, Judicial Activism in Comparative Perspective (1991)
Jackson & Tate, Comparative Judicial Review and Public Policy (1992)
Jackson, The United Kingdom Confronts the European Convention on Human Rights (1997)
Hensley & Kuersten, "Studying the Studies" (1995)
Johnson & Canon, Judicial Policies: Implementation and Impact
Maltzman, Spriggs, Wahlbeck, Crafting Law on the Supreme Court
Murphy, Elements of Judicial Strategy.
Platto, Trial and Court Procedures Worldwide (1991)
Posner, The Problems of Jurisprudence
Richardson & Vines, Politics of the Federal Courts
Rohde and Spaeth, Supreme Court Decision Making.
Schubert & Danelski, Comparative Judicial Behavior (1969)
Shapiro, Courts: A Comparative & Political Analysis (1981)
Songer, The Transformation of the Supreme Court of Canada: An Empirical Examination (draft 2006) (available on Blackboard)
Songer, Sheehan, & Haire, Continuity & Change on the US Courts of Appeals
Volcansek, Constitutional Politics in Italy: the Constitutional Court
Assignments and Grading:

Your grade will be composed of the following components:
1) class and professional participation  25%
2) short papers & class presentations  25%
4) research paper  50%

All written work should be produced using Wordperfect or some other appropriate word processing program.

Participation requirement: In addition to vigorously participation in the discussion of course readings, you will be expected to:
1. Attend & participate in all colloquia on Comparative & American politics.
2. Attend presentations of any comparative or American politics students preparing to go to job interviews.
3. Attend relevant talks & receptions sponsored by the Walker Institute and PSRW.

Abbreviations Used:
APSR = American Political Science Review
AJPS = American Journal of Political Science
JOP = Journal of Politics
PRQ = Political Research Quarterly
BJPS = British Journal of Political Science
IPSR = International Political Science Review
CJPS = Canadian Journal of Political Science

Note: An Asterick * notes Supplemental reading I will try to say something about if there is time.

Class Schedule

WEEK 1  Jan 18  The Judicialization of Politics
Schmidhauser, ch. 1
Shapiro, Ch. 1
Tate & Vallinder, ch. 1, 2, 3
Baum, Puzzle ch. 1

Jacob, Courts, Law & Politics, chapt. 1, 2,3 (Intro, US, England)
Tate & Vallinder, ch. 5, 6, 8, 9, 25,
Shapiro, ch. 2- English courts & Judicial Independence
Holland, ch. 2, 3, 4
Jackson & Tate, Ch. 1, 3, 10
Codebook for the Comparative Courts Database
**SUPPLEMENTAL**

*Songer, ch. 1, 6

*Australia - Galligan, Politics of the High Court: Australia (1987)

Brodie, Friends of the Court (2002)

Songer, Sheehan, & Haire, Continuity & Change on the US Courts of Appeals


*Sterett, “Judicial Review in Britain” Comparative Political Studies 26:42142 (1994)


McCormick & Greene, Judges and Judging:Inside the Canadian Judiciary (1990)

Sunkin, Judicial Review in Perspective (1996)

Newberg, Judging the State: Courts & Const Poli in Pakistan (1994)

Schmidhauser, ch. 3 (Canada); ch. 7 (England)

*Waltman & Holland, ch. 1, 2, 3, 4, 6 (US, Australia, England, Canada)


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**WEEK 3**

**Feb 1-**  
**Courts in Policy Making: Europe**


Jacob, Courts, Law & Politics, chapt. 4, 5, 6, 7 (France, Germany, Japan)

Tate & Vallinder, ch. 14, 15, 16, 17, 22, 23, 24

Holland, ch. 7

Jackson & Tate, Ch. 4, 6

**SUPPLEMENTAL**

*Waltman & Holland, ch. 5, 7, 8, 10 (France, Germany, Italy, Japan)

Volcansek, The Judicialization of Politics in Latin America (2005)

Schubert, Political Culture and Judicial Behavior, vol. 1


Volcansek, Constitutional Politics in Italy: the Constitutional Court (2000)


Edelman, Courts, Politics and Culture in Israel (1994)

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**WEEK 4**

**Feb 8-**  
**Courts in Policy Making: Latin America**

WEEK 5  Feb. 15  Creating the Rule of Law

Tate & Vallinder, ch. 26

WEEK 6  Feb. 22  The Rights Revolution

Schmidhauser, ch. 9 (US & Britain)
Tate & Vallinder, ch. 15
Clark, “Importance of Institutional Context on Judicial Decision Making” (available on Blackboard)

SUPPLEMENTAL
Manfredi, Judicial Power and the Charter: Canada and the paradox of Liberal Constitutionalism (1993)
Jackson, The United Kingdom Confronts the European Convention on Human Rights (1997)

WEEK 7  Mar 1  Courts and Authoritarian Regimes

Haynie. 2003. Judging in Black and White: (South Africa)
Tate & Haynie, “Authoritarianism and the Functions of Courts” (Philippines)

SUPPLEMENTAL
McAdams, Transitional Justice and the Rule of Law in New Democracies
WEEK 8  Mar. 8  JUDICIAL DECISION MAKING: THE LEGAL MODEL

Baum, Puzzle ch. 2
Posner, Jurisprudence, intro & ch. 1,2,5,6
Friedman, Taking Law Seriously” (Blackboard)
Shapiro, Ch. 3 (Civil Law countries)
Carter, Reason in Law, ch. 1-3
Songer, ch. 5,8 (Blackboard)
Lindquist & Songer, "A Gravitic Model of Supreme Court Decision Making" (on Blackboard)

SUPPLEMENTAL
*Segal “The search and Seizure Cases” APSR 78:891-900(1984)
*Coffin, On Appeal, Ch. 1,2, 12, 13
*Choper, Judicial Review and the National Political Process
*Dworkin, A Matter of Principle
*Carter, Contemporary Constitutional Lawmaking
*Nowak & Rotunda, Constitutional Law

(March 10 – 18 SPRING BREAK)

WEEK 9  Mar. 22  DECISION MAKING: THE ATTITUDINAL MODEL

Schubert, Jud. Mind - ch. 1,2,3,5
Schubert & Danelski – Comparative Judicial Behavior (especially chapt. 1, 5,6,7,9,10,11,12)
Baum, Puzzle ch. 3
Songer, ch. 7

SUPPLEMENTAL
Robertson, Judicial Discretion in the House of Lords (1998)
*Segal & Spaeth, Supreme Court & the Attitudinal Model Revisited (2002)
*November 1996, AJPS - Symposium on Attitudinal Model (vol 40., #4)
Segal & Spaeth; Brisbin; Knight & Epstein; Brenner & Stier; Songer & Lindquist; Segal & Spaeth reply.
*Rohde & Spaeth, S.C. Decision Making - ch. 4,7
Pritchett, The Roosevelt Court
Tate (81)
WEEK 10  Mar. 29  DECISION MAKING: STRATEGIC APPROACHES
Baum, Puzzle, chapt. 4
Helmke, Courts Under Constraints
Brace & Hall, JOP 59:1206-31 (1997)
Epstein & Knight, “Toward a Strategic Revolution in Judicial Politics: a

SUPPLEMENTAL
Helmke, “Court-Executive Relations: Insecure Tenure and Strategic Defection
in Argentina” APSR
Iaryczower, et al., “Judicial Independence in Unstable Environments,
Argentina 1935-1998” (on Blackboard)
Richardson & Vines, Politics Fed Cts - ch. 1,6,8
*Songer, Segal, & Cameron, AJPS 38:673-696 (1994)
*Songer and Haire, “Alternative Approaches to the Study of judicial Voting”
AJPS 36:963-82 (1992)
*Segal APSR 91:28-44 (1997)

Murphy, Elements Strategy chapt. 1,2,3,8
*Maltzman, Spriggs, Wahlbeck, Crafting Law on the Supreme Court
Brenner, (1980)
Brenner, 1982
Howard (1968)

WEEK 11  April 5 Appointing Judges
Malleson & Russell, Appointing Judges in an Age of Judicial Power
Tate “Personal Attribute Model of the Voting Behavior of US Supreme Court
Tate, “Recruitment of the British Higher Judiciary” IPSR 13:249-267
(1992)
Tate & Sittiwong, “Extending the Personal Attribute Model Across

SUPPLEMENTAL
WEEK 12  April 12  Agenda Setting
Flemming, Tournament of Appeals (UBC Press, 2004)

Articles on cert TBA
Perry, Deciding to Decide (selections)

WEEK 13  April 19  Party Capability Theory & Political Disadvantage Theory

Haynie, "Resource inequalities and Litigation Outcomes in the Philippine Supreme Court" JOP 56:752-72.
Law & Society Review, 1999 (vol 33, #4) special issue on Galanter
Songer, Kuersten & Kaheny, “Why the Haves Don’t Always Come out Ahead” PRO
53:537-556 (2000)
SUPPLEMENTAL
*Olson (1990) JOP 52:854

WEEK 14 - April 26  Decision Making: Audiences & the Views of Judges
Baum, Judges and their Audiences (Princeton, 2006)
Greene, Final Appeal

SUPPLEMENTAL
Klein, Making Law in the United States Courts of Appeals

???? Concluding Reflections on the Comparative Study of Law & Courts
Tate & Vallinder, ch. 27
Baum, ch. 5
Waltman & Holland, ch. 11
Holland, ch. 1