POL 438/POL 2321 – Topics in Comparative Politics I
Judicial Politics
Fall 2023: Wednesdays, 3-5PM

Instructor: Prof. Tommaso Pavone
Office: Department of Political Science, Sidney Smith Hall 6026A
Office Hours: Wednesdays, 5-6PM (or by appointment via Zoom)
Email: t.pavone@utoronto.ca

Course Description
This course provides an in-depth understanding of the social and political origins of judicial power and the growing role that courts play in democracies and autocracies. Adopting a comparative perspective, we will probe when and why citizens, social movements, and policymakers turn to the courts and support judicial power, what factors shape how judges make decisions, when judicial decisions beget compliance and defiance, and how courts shape regime politics like democratization, democratic backsliding, and autocratic consolidation. Throughout we will bring cutting-edge research to life with concrete examples: from domestic courts like the US Supreme Court to international courts like the European Court of Justice; from judicial politics in liberal democracies like Canada, to backsliding regimes like Hungary, to consolidated autocracies like Egypt.

Course Objectives
By the end of this course, you will be able to:

- Explain when and why civil society and policymakers turn to the courts to resolve political controversies.
- Identify the social and political (non-legal) factors that shape judicial decision-making and condition the impact of court decisions.
- Compare and contrast the politics of judicial power in democracies and autocracies.
- Intervene in contemporary debates concerning the role of courts in safeguarding democracy and the rule of law.
- Apply the comparative method to answer research questions in law and politics.

Grading
This course uses the standard U of T grading scale:

- 90-100: A+
- 85-89: A
- 80-84: A-
- 77-79: B+
- 73-76: B
- 70-72: B-
- 67-69: C+
- 63-66: C
- 60-62: C-
- 57-59: D+
- 53-56: D
- 50-52: D-
- 0-49: F
Grade breakdown for undergraduate students

- 25 points: In-class participation
- 15 points: Leading one class discussion
- 15 points: Quizzes (5pts each; weeks 4, 7, 12)
- 45 points: Final paper (~10 pgs) due Dec. 6

Grade breakdown for graduate students

- 25 points: In-class participation
- 15 points: Leading one class discussion
- 15 points: Book review (~6 pgs) due Nov. 1
- 45 points: Final paper (~10 pgs) due Dec. 6

On Classes & Reading Load

This is a reading-intensive and discussion-centered seminar. You should plan to prepare and actively discuss 60 to 100 pages’ worth of readings a week on average (usually three pieces, such as book chapters or academic articles). I strive to select thought-provoking and engaging readings; nevertheless digesting scholarly research is more challenging (and slow-going) than reading a news article or a blogpost, so plan accordingly.

In-class Participation (25% of your grade)

As a seminar, regular attendance and active discussion is essential to everyone's learning and the success of this course. I will begin each class with opening remarks, and may intermittently use discussion questions, follow-ups, podcast clips, and slides or visual materials to orient our conversations. However, the majority of class will be led by you! I expect you to regularly and actively engage in class discussion, having prepared the readings ahead of time.

Your participation grade is a combination of attendance and discussion, assessed as follows:

- Everyone will start off with a default participation grade of 16/25. Actively participating throughout the course will increase your participation grade, whereas missing classes will decrease your participation grade.
- Active discussion throughout the course will raise your participation grade (by up to 6-9 points for very active and consistent discussion, and 1-5 points for moderate and fairly consistent participation/discussion). Leading an in-class discussion (see below) does not count towards your participation grade.
- Beginning on week 2, I will take attendance. You get one free absence (no questions asked/no need for justification!); additional absences will lower your participation grade by 4 points per absence. I will make exceptions to this absence policy for a limited set of excusable reasons (family or health emergencies, religious holidays, etc): in such instances you must e-mail me before class, register your absence using the Absence Declaration tool on ACORN (https://www.acorn.utoronto.ca/) and we will discuss ways of making-up the material missed.

Leading an In-Class Discussion (15% of your grade)

One of the ways in which you will set the agenda for the course is by leading an in-class discussion sometime during the semester.

On Week 2, you will select a reading from a future week in the syllabus for which to lead an in-class discussion. Any of the readings in the class schedule that is marked with an asterisk (*) is available for you to choose. Please be sure to carefully review the syllabus and reading list and come up with a list of dates/readings that you are interested in; you may not get your first preference. I marked readings with a hashtag (#) if their empirical evidence includes statistical analysis; some basic familiarity with quantitative methods is preferable if you choose to lead a discussion of one of these readings.
Because there may be fewer readings than enrolled students, for some weeks we may double-up by breaking off into two discussion groups, each led by a student.

Leading an in-class discussion consists of two graded components:
1. First, begin with a 5-minute overview and critical analysis of the reading. First, carefully complete the reading; then, come to class with an outline/bullet points to structure your remarks. Do not try to summarize the reading in all its detail; rather, get us up to speed on what it is about and offer some critical thoughts on the reading that will set us up for discussion. For instance, ponder some of the following questions to prepare your remarks: What is the puzzle, or motivating question, underlying the reading? What is the argument, or answer, that the author provides? What evidence is used to support the argument, and is it persuasive? How does the reading illustrate, contradict, or extend other readings or our class discussions? What did you find more or less compelling or clear, and why? The more cogent your overview and critical comments on the reading, the higher your grade.
2. Second, prompt classmates into discussion with one thoughtful and thought-provoking opening question. Make sure your question is not one that can be easily answered with a “yes/no;” think of a question that set the agenda for a conversation or debate relevant to the topic of the week. If we have not already divided into two discussion groups, I will divide the class into two groups at this point to discuss your question, before we reunite to continue the conversation. The more thoughtful your question and lively the discussion it prompts, the higher your grade.

On the day that you lead the in-class discussion, please submit your bullet points/notes, as well as your opening question for discussion, on Quercus as a PDF file. Late submissions will lower your grade for this assignment by 2 points (2% of your overall grade) per day late.

**Online Quizzes (undergraduate students only – 15% of your grade)**
For undergraduate students, there will be three online quizzes (that you can access on our Quercus course site) that will gauge your understanding of key concepts from the readings and class discussion.

The quizzes will usually comprise a few multiple choice and short answer questions; they are open-book (but not collaborative – you are expected to complete them on your own) and are designed to take no more than 30 minutes to complete. The quizzes are worth 5 points each (15 points total). They will be available after Wednesday class and due by Thursday at 11:59PM on Weeks 4, 7, and 12. After each quiz, I will reserve some time in class to go over the questions together.

**Book Review (graduate students only – 15% of your grade)**
For graduate students, you will select a book on judicial politics and write a critical review of the book of approximately 6 pages (using 12-point Times New Roman font, double spaced with 1-inch margins). The book you review is up to you, but it must be: (i) a scholarly work (ii) published in the past 10 years (iii) written by a social scientist (iv) on the themes of this course (v) that is not included on the syllabus. Deviations from these guidelines must be pre-approved by me. The review is due on Wednesday, November 1 by 11:59PM on Quercus (as a PDF file); late submissions will be penalized by 2 points (2% of your overall grade) per day late; no submissions will be accepted after Friday, November 3.

The book review consists of four graded sections:
1. A 2-page summary of the book, including the research question/puzzle it addresses, its argument, how it is organized (including brief chapter summaries), and its empirical evidence.
2. A 1-page analysis of how the book fits into the study of judicial politics, such as how it builds upon, challenges, or otherwise contributes to the research themes and debates in this course. Depending on the book you review you may have to read ahead (for instance, if you select a book on judicial politics in an authoritarian regime, you should read ahead to week 12). Include citations to the relevant literature in this section.

3. A 3-page critical evaluation of the book, including its strengths and weaknesses, and what pathways for future research the book opens up (to address its limitations, extend its insights, or answer questions that it raises).

4. A bibliography that includes references to all sources cited in the paper. The bibliography is in addition to your 6-page review (i.e. it is not included in the page count). Use a standard citation format for the review and your bibliography (such as Chicago-Style or APA-Style).

**Final Paper (45 % of your grade – 5% for the paper proposal & 40% for the paper itself)**

Your final paper will take the form of a research paper of approximately 10 pages, excluding the bibliography (using 12-point Times New Roman font, double spaced with 1-inch margins). Your final paper counts for 45% of your grade: 5% for meeting with me to discuss a proposal for your final paper, and 40% for the final paper itself. Specifically, you will conduct a comparative case study to answer a research question or puzzle of your choosing (concerning judicial politics) using empirical evidence.

By research question/puzzle, I mean that you should ask a “when/under what conditions” or “why” question instead of a descriptive or normative question. For instance, instead of asking “do policymakers support judicial review?” (a descriptive question) or “should policymakers support judicial review?” (a normative question), you could ask “when do policymakers support judicial review?” (an analytic question). Make sure the question is clearly relevant to the themes from this course and can be answered using empirical evidence in your comparative case study.

By comparative case study, I mean that you should answer your research question by either selecting one legal order/country/court and comparing its judicial politics across two historical periods or you can compare the judicial politics of one legal order/country/court to another. For instance, if your research question is “when do policymakers support judicial review?,” you could select one country where policymakers were initially resistant to judicial review and then began to embrace it (to probe why this change in policymakers’ behavior over time), or you could select one country where policymakers oppose judicial review and compare it to a similar country where policymakers support judicial review (to probe why this difference in policymaker behavior across two similar cases).

By empirical evidence, I mean that you should use qualitative and/or quantitative data to conduct your comparative case study and answer your “when” or “why” question. Qualitative data could include evidence from interviews, speeches, textual or historical records, as well as secondary sources, such as academic articles or books (though you should not solely rely on secondary sources). Quantitative data could include litigation or judicial statistics, public opinion data, socio-economic statistics, voting records, etc. For example, if you ask “why did policymakers in country X suddenly embrace judicial review?,” you could scout media interviews or parliamentary speeches where policymakers might explain their shifting positions, judicial records for past court decisions that impinged on policymakers’ interests, public opinion data indicating shifts in policymakers’ electoral calculus, or litigation data denoting changes in win rates by policymakers’ constituencies. If you are not able to decisively answer your “when” or “why” question, explain which answer is best supported by the evidence.
Your final paper consists of six graded sections:

1. A title page that includes a brief abstract (of maximum 200 words) that summarizes your paper: your research question/puzzle, the comparative case study design that you develop to answer it, your empirical evidence, and takeaways/lessons for the study of judicial politics. Model your title page/abstract on those found in academic journal articles, such as those in this syllabus.

2. A 2-3 page introduction and cogent theory section where you introduce your research question/puzzle, explain why it is an important or interest question, and situate it in the existing literature on judicial politics. If it is a question that is recurrent in existing research, explain how the question has been posed and answered in existing research, including any debates surrounding these answer(s). If it is a novel question, underscore its novelty by contrasting it with the questions posed by existing research and highlighting the limits of those studies. Remember that few questions are ever wholly novel: most research questions build upon and extend existing research, and if this applies to your question, showcase it in this section.

3. A 1-page overview of your comparative case study design, including a justification of your case selection and brief overview of your cases. Explain why your comparative case study design is analytically appropriate for answering your research question, and perhaps why your cases are interesting or important for answering your research question. You may also briefly describe or contextualize your cases so that your subsequent empirical analysis is easy to follow. Here are some few resources that you might consult (and reference) in thinking through how to select your cases and justify your comparative case study design:

4. A 4-5 page comparative case study analysis using empirical evidence from your research (again, you can either compare judicial politics within a single legal system/country/court across two historical periods, or compare judicial politics across two legal systems/countries/courts). Make sure your qualitative and/or quantitative evidence is clearly organized to answer your “when” or “why” question, perhaps by adjudicating possible answers to your question.

5. A 1-page conclusion that specifies the takeaways or implications of your paper for the study of judicial politics. What did we learn from your comparative case study analysis that helps us better understand the politics of courts? What questions emerged from your analysis that you were not able to answer but that might open fruitful pathways for future research?

6. A bibliography that includes references to all sources used in the paper. The bibliography is in addition to your 10-page paper (i.e. it is not included in the page count). Use a standard citation format in the paper and your bibliography (such as Chicago-Style or APA-Style).

You must arrange to discuss a proposal for your final paper during office hours or by e-mailing me to schedule a Zoom meeting; this meeting must be held no later than Week 8 of class (early November, before fall reading week) or you will not receive any credit. This conversation should take no more than 15 minutes and will count for 5% of your overall grade. You do not need to submit any written materials for our meeting, but you should be ready to thoughtfully discuss and receive feedback on:
   - Your proposed research question/puzzle
   - Your proposed comparative case study
   - Any questions about the final paper that are not answered by this syllabus
Your final paper is formally due on the last day of class, December 6, to be submitted on Quercus (as a PDF file). However, I will accommodate you if you wish to continue working on your paper during the first few days of the final assessment period. Specifically, there is no late penalty if your paper is submitted before Wednesday, December 13 at 11:59PM. Papers submitted after December 13 will be penalized by 5 points (i.e. 5% of your overall grade) per day late, and I will no longer accept papers submitted after December 15. I will in exceptional circumstances grant extensions to the due date, namely for unpredictable and documentable family, health, or other emergencies: in such instances you must e-mail me before the due date as soon as the emergency arises and we will negotiate an extension.

Class Schedule
Notes: Readings marked with an asterisk (*) are available for leading an in-class discussion. Readings marked with a hashtag (#) include quantitative/statistical analysis; a basic familiarity with quantitative methods is preferable if you choose one of these readings for leading an in-class discussion. I may make and communicate small revisions to the selection readings over the course of the semester.

Week 1: Introduction & Overview of Class
September 13 ~ no readings (except for syllabus)
• Read: This syllabus!

Week 2: Courts as Political Institutions
September 20 ~ 79 pgs of reading (+ in-class discussion paper selections)
• Read: Excerpts (pgs. 1-19) of Mary Volcansek, Comparative Judicial Politics, Chapter 1, “Law, Courts, and Politics” (Rowman & Littlefield, 2019).
Come to class with your preferred readings for leading an in-class discussion

Week 3: The Judicialization of Politics I: A One-Way Ratchet?
September 27 ~ 68 pgs of reading

Week 4: The Judicialization of Politics II: Parties, Elites, and Judicial Empowerment
October 4 ~ 97 pgs of reading (+ quiz this week)

First online quiz (via Quercus) due by Thursday, October 5 at 11:59PM (undergraduate students only)

Week 5: Legal Mobilization I: Party Capability, or do the “Haves” Come Out Ahead?
October 11 ~ 72 pgs of reading

Week 6: Legal Mobilization II: Legal Opportunity
October 18 ~ 83 pgs of reading

Week 7: Courts and Social Change I: From Unresponsive to Responsive Bureaucracies
October 25 ~ 106 pgs of reading (+ quiz this week)

Second online quiz (via Quercus) due by Thursday, October 26 at 11:59PM (undergraduate students only)

Week 8: Judicial Decision-Making I: Attitudes and Biases
November 1 ~ 46 pgs of reading (+ book review due)

Book review due by Wednesday, November 1 at 11:59PM (graduate students only)

Last week to discuss your final paper proposal (during office hours or via Zoom appointment)

Week 9: Fall Reading Week, no class

Week 10: Judicial Decision-Making II: Strategic Behavior and Institutional Constraints
November 15 ~ 91 pgs of reading (+ last week to meet & discuss final paper proposal)

Week 11: Courts and Social Change II: Judicial Impact, or Lack Thereof?
November 22 ~ 113 pgs of reading

Week 12: Judicial Politics in Authoritarian States
November 29 ~ 98 pgs of reading (+ quiz this week)

Third online quiz (via Quercus) due by Thursday, November 30 at 11:59PM (undergraduate students only)

Week 13: Courts and the Breakdown of Democracy
December 6 ~ 81 pgs of reading (+ final paper due)

*Final paper due December 6 (but no late penalty if submitted before Wednesday, December 13 at 11:59PM)*

Course Policies
Please familiarize yourself with the following policies for this course.

**On diversity, equity, and inclusion:** The University of Toronto is committed to equity, human rights and respect for diversity. I will strive to create an atmosphere of mutual respect where all members of our community can express themselves, engage with each other, and respect one another’s differences – and I expect the same of everyone enrolled in this course. U of T does not condone discrimination or harassment against any persons or communities.

**On accessibility and accommodations:** Students with diverse learning styles and needs are welcome in this course. If you may require accommodations, please register with Accessibility Services on the phone (416-978-8060), via email (accessibility.services@utoronto.ca), or at their office (455 Spadina Avenue, 4th Floor, Suite 400, Toronto, ON, M5S 2G8). E-mail me, or have a representative from Accessibility Services e-mail me, as soon as possible so you can be accommodated in a timely manner. Also, please e-mail me as early as possible to discuss accommodating any anticipated absences related to religious observances or family care and the implications for course work.

**On academic integrity and plagiarism:** Academic integrity is essential to the pursuit of learning and scholarship in a university, and to ensuring that a degree from the University of Toronto is a strong signal of each student’s individual academic achievement. As a result, I treat cases of cheating and plagiarism very seriously. All suspected cases of academic dishonesty will be investigated following procedures outlined in the Code of Behaviour on Academic Matters. You are expected to seek out additional information on academic integrity from me or from other institutional resources (for example, the University of Toronto website on Academic Integrity: [https://www.academicintegrity.utoronto.ca/](https://www.academicintegrity.utoronto.ca/)). Potential offences include, but are not limited to:

- Using someone else’s ideas or words without appropriate acknowledgement.
- Making up sources or facts.
- Obtaining or providing unauthorized assistance on any assignment.

For more information, see Writing at U of T: [http://www.writing.utoronto.ca/advice/using-sources](http://www.writing.utoronto.ca/advice/using-sources)

**Additional Resources**

- Need to contact me? Here is a helpful resource on talking to your U of T professors: [https://studentlife.utoronto.ca/task/talk-to-your-professors/](https://studentlife.utoronto.ca/task/talk-to-your-professors/)
- Need help with writing your final paper? Seek the assistance of one of the writing centers on the St. George campus: [https://writing.utoronto.ca/writing-centres/arts-and-science/](https://writing.utoronto.ca/writing-centres/arts-and-science/)
- Experiencing computer issues? Get IT support here: [https://its.utoronto.ca/contact/](https://its.utoronto.ca/contact/)
• Need academic advice and support? Contact your College Registrar’s Office (https://www.artsci.utoronto.ca/current/academic-advising-and-support/college-registrars-offices) or book a one-on-one appointment with a peer mentor (https://studentlife.utoronto.ca/department/academic-success/)

• Need support for your mental health? Get counselling and therapy services via the Health and Wellness Office: https://studentlife.utoronto.ca/service/mental-health-clinical-services/

• Are you a student parent or have family care responsibilities? Get support from the Family Care Office: https://familycare.utoronto.ca/