



POL 378H– Topics in Comparative Politics II Law and Political Development

Fall 2024: Thursdays, 3-5PM

Instructor: Prof. Tommaso Pavone

Office Hours: Thursdays after class, 5:30-6:30PM (or by appointment via Zoom)

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Course Description

This course illuminates how political authority is constructed and contested, alongside the role that law and legal actors play in this process. Focusing on the historical development of territorial states, but also considering empires and international organizations, we will debate how these polities emerge, how they project their power and legitimate their authority, how people challenge and resist their rule, and how laws, lawyers, and judges impact these processes of political development. Throughout we will animate our discussions with an array of comparative examples – such as the medieval origins of the rule of law in Europe, the territorial expansion of the US federal state, and the political role that courts play in democratic and authoritarian states today.

Course Objectives

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

- Define “the state” and critically evaluate alternative explanations for the origins and historical development of territorial states
- Explain how states project their power and how social actors facilitate or resist their authority
- Identify how law can be mobilized to constitute, reshape, and challenge state power
- Compare and contrast how law and legal actors shape the development of democratic and autocratic states

Grading

This course uses the standard U of T grading scale:

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

The breakdown of your grade is as follows:

- 20 points: In-class participation
- 15 points: Online quizzes (3 quizzes * 5 pts each; due Sept 20, Oct 25, & Nov 15)
- 25 points: Online midterm (on Oct 10)
- 40 points: Final essay (due Nov 28)

On Classes & Reading Load

This is a reading-intensive course with a mixture of lectures and in-class discussions. You should plan to prepare and actively discuss 40 to 90 pages' worth of readings a week (usually three pieces, such as book chapters or academic articles, plus an occasional podcast). I strive to select thought-provoking and engaging materials; nevertheless, digesting scholarly research is more challenging (and slow-going) than reading a news article or a blogpost, so plan accordingly.

In-Class Participation (20% of your grade)

Regular attendance and active discussion is essential to everyone's learning and the success of this course. During lectures, I will sometimes pose questions or probe your thoughts, and I will also regularly break everyone into groups to engage one/more discussion questions. I expect you to have prepared the readings ahead of time so that you can actively and regularly contribute to these group discussions. I also encourage you to sometimes volunteer your thoughts during lectures.

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

- Everyone will start off with a default participation grade of 12/20. Actively participating throughout the course will *increase* your participation grade, whereas missing classes will *decrease* your participation grade.
- Active discussion (contributing consistently to in-group discussions, and on occasion thoughtfully responding to prompts during lectures) will raise your participation grade (by up to 5-8 points for active and thoughtful discussion, and 1-4 points for infrequent or superficial discussion). While you should always participate in group discussions, you do not need to speak during every lecture to get a good participation grade (in fact, this is not possible given the class size): an occasional but thoughtful response to a question posed during lecture or engaging comment is more valuable than lots of superficial interjections.
- 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 2 points per absence. I will make exceptions to this absence policy for a limited set of documentable and extraordinary reasons: be sure to consult the excused absence policy at the end of this syllabus.

Online Quizzes (15% of your grade)

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 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 Thursday class and due by Friday at 11:59PM on Weeks 3 (September 20), 8 (October 25), and 11 (November 15). The week after each quiz, I will reserve some time in class to go over the questions together.

Online Midterm (25% of your grade)

On Week 6 (Oct. 10), class will be cancelled and during class-time you will instead take an online midterm (via Quercus) covering the material from the first part of the course. As you can see from the schedule of topics and readings below, the midterm will focus on key concepts and theories of political development, to set us up for the second part of the course where we add law and legal actors to the mix.

The online midterm will be similar to an extended Quercus quiz, but in addition to some multiple-choice questions it will also include some short answer questions.

The midterm will go live on Quercus at 3PM on October 10 (when you would otherwise be coming to class) and must be completed by 6PM. Although the midterm is designed to take no more than 60 minutes to complete, you can take the entire 3 hours before submitting it if you choose to. The midterm is open book but not collaborative – you must work on it on your own.

Be sure to plan ahead to take the online midterm on October 10 (there are no make-ups for the midterm). Find a space where you are comfortable and with reliable wifi. If an *unanticipated* and *documentable* emergency (such as family or health emergency) prevents you from taking the midterm on October 10, you must e-mail me *before* the midterm documenting the reason, and we will negotiate alternative arrangements. If you require special accommodations for the midterm, please e-mail me well before the midterm date.

Final Essay (40 % of your grade)

Your final essay will span material from the entire course and consist of two parts. In the first part, you will be asked to evaluate a short response generated via ChatGPT to a question on law and political development. In the second part, you will choose one of two questions on law and political development to answer in your own words. Specifically:

1. For the first part of the essay, I will provide you with a short response generated via ChatGPT to a question relevant to this course. You will then take on the role of professor and write a 2-page evaluation of the response (double-spaced in Times New Roman font with 1-inch margins). Your evaluation should focus on: (i) what (if anything) did ChatGPT's answer get right, (ii) what (if anything) did it get wrong, (iii) what (if anything) did it miss or could it have added, and (iv) what grade should it receive? The more convincingly you draw on course materials and our class discussions to evaluate the response and justify a grade, the higher your own grade for this part of the essay.
2. For the second part of the essay, you will choose between two questions/prompts related to law and political development and craft a 2-page answer using your own words (also double-spaced in Times New Roman font with 1-inch margins). Just as in the first part of the essay, the better you demonstrate your command of the class material and your capacity to analyze it critically, the higher your grade. That is, cite course materials where appropriate, but do not just summarize them; analyze them and apply them critically.

Throughout, cite materials in-text as “author year: page#” (ex: Wang 2023: 120-122), and include a works cited page at the end of your essay using a standard citation format (such as Chicago or APA).

The prompt and questions for the final essay will be posted as a Microsoft Word document on Quercus no later than Thursday, November 14. You should download it and complete the answers in

the same Word file. Working on the essay is open note (you can rely on class materials and your own notes). However, this is not a collaborative assignment, and you must work on it on your own.

Your final essay is formally due on the last day of class, November 28, to be submitted on Quercus (as a Word file). While the final essay is due on November 28, I will accommodate you if you wish to continue working on your essay a few days after class ends. Specifically, there is *no late penalty if your essay is submitted before Thursday, December 5 at 11:59PM*. Essays submitted after December 5 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 7. I will in exceptional circumstances grant extensions: be sure to consult the assignment extensions policy at the end of this syllabus, which will be strictly followed.

Class Schedule

Notes: You are expected to have read all the readings before class to prepare for in-class discussions. I may make and communicate small revisions to the selection readings over the course of the semester.

Week 1: Introduction & Overview of Class

September 6 ~ no readings (except for syllabus)

- Read: This syllabus!

Week 2: What is Political Development?

September 12 ~ 24 pgs of reading

- Read: Chapter 1, “What is Political Development?” from Francis Fukuyama, *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy* (Farrar, Straus, & Giroux, 2014): pgs. 23-39.
- Read: Yuhua Wang, 2021. “The Study of the State: A Brief Intellectual History,” in *Broadstreet Blog*: <https://broadstreet.blog/2021/06/28/the-study-of-the-state-a-brief-intellectual-history/>
- Read: Yuhua Wang, 2021. “The Hobbesian Hypothesis,” in *Broadstreet Blog*: <https://broadstreet.blog/2021/05/12/the-hobbesian-hypothesis/>

Week 3: The Origins and Development of the State

September 19 ~ 64 pgs of reading

- Read: Chapter 1, “A Narrative in Tatters,” in James Scott, *Against the Grain: A Deep History of the Earliest States* (Yale University Press, 2018): pgs. 1-36.
- Read: Excerpts (pgs. 169-175, 181-186) of Charles Tilly, “War Making and State Making as Organized Crime,” in *Bringing the State Back In* (Cambridge University Press, 1985).
- Read: Chapter 7, “War and the Rise of the Chinese State,” in Francis Fukuyama, *The Origins of Political Order: From Prehuman Times to the French Revolution* (Farrar, Straus, & Giroux, 2011): pgs. 110-127.

First online quiz (via Quercus) due by Friday, September 20 at 11:59PM

Week 4: Power, Legibility, and Consent

September 26 ~ 77 pgs of reading

- Read: Excerpts (pgs. 187-194) of Michael Mann, 1984. “The Autonomous Power of the State: Its origins, mechanisms and results,” *European Journal of Sociology* 25 (2): 185-213.

- Read: “Introduction” (pgs. 1-9) in James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (Yale University Press, 2008)
- Read: Rodríguez-Muñiz, Michael. 2017. “Cultivating Consent: Nonstate Leaders and the Orchestration of State Legibility.” *American Journal of Sociology* 123 (2): 385-425.

Week 5: Empires and Political Development

October 3 ~ 40 pgs of reading + 1h 13 min podcast

- Read: Chapter 1, “Introduction” (pgs. 1-22) in Jane Burbank & Frederic Cooper, *Empires in World History: Power and the Politics of Difference* (Princeton University Press, 2010): pgs. 1-22.
- Read: Excerpts (pgs. 1-18) of Yuhua Wang, *The Rise and Fall of Imperial China: The Social Origins of State Development*, Chapter 1 (Princeton University Press, 2022): pgs. 1-18.
- Listen: “Scope Conditions” podcast on Diana Sue Kim’s *Empires of Vice: The Rise of Opium Prohibition Across Southeast Asia* (Princeton University Press, 2020): <https://www.scopeconditionspodcast.com/episodes/episode-22-why-empires-declared-a-war-on-drugs-with-diana-kim>

Week 6: Online Midterm, no class

Midterm will go live on Quercus on October 10 from 3-6PM and must be completed during that time period

Week 7: Law and Political Power: Perspectives

October 17 ~ 77 pgs of reading

- Read: Excerpts (pgs. 339-345) of Mark Murphy, “Hobbes (and Austin, and Aquinas) on Law as Command of the Sovereign,” in *The Oxford Handbook of Hobbes* (Oxford University Press, 2016).
- Read: Chapter 3, “Liberalism” and Chapter 4, “Locke, Montesquieu, & the Federalist Papers,” in Brian Tamanaha, *On the Rule of Law: History, Politics, Theory* (Cambridge University Press, 2004): pgs. 32-59.
- Read: Excerpts (pgs. xxvii-xxviii, lx-lxxv) of Jens Meierhenrich’s “An Ethnography of Nazi Law,” in Ernst Fraenkel, *The Dual State: A Contribution to the Theory of Dictatorship* (Oxford University Press, 2017)
- Read: Sally Engle Merry, 1988. “Legal Pluralism,” *Law & Society Review* 22 (5): 869-896.

Week 8: Law and European Political Development

October 24 ~ 89 pgs of reading

- Read: Chapter 17, “The Origins of the Rule of Law,” & Chapter 18, “The Church Becomes a State,” in Francis Fukuyama, *The Origins of Political Order: From Prehuman Times to the French Revolution* (Farrar, Straus, & Giroux, 2011): pgs. 245-275.
- Read: Chapter 4, “Law and Learning,” in Anna Grzymala-Busse, *Sacred Foundations: The Religious and Medieval Roots of the European State* (Princeton University Press, 2023): 113-143.
- Read: Douglass North & Barry Weingast, 1989. “Constitutions and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth-Century England,” *Journal of Economic History* 49 (4): pgs. 803-832.

Second online quiz (via Quercus) due by Friday, October 25 at 11:59PM

Week 9: Fall Reading Week, no class

October 31

Week 10: Law and American Political Development

November 7 ~ 41 pgs of reading + 47 min podcast

- Read: Introduction, in Paul Frymer, *Building an American Empire: The Era of Territorial and Political Expansion* (Princeton University Press, 2017): pgs. 1-31.
- Read: Introduction, in S. Deborah Kang, *The INS on the Line: Making Immigration Law on the US-Mexico Border, 1917-1954* (Oxford University Press, 2017): 1-10.
- Listen: “OUP New Books in History” podcast on S. Deborah Kang, *The INS on the Line: Making Immigration Law on the US-Mexico Border, 1917-1954* (Oxford University Press, 2017): <https://newbooksnetwork.com/s-deborah-kang-the-ins-on-the-line-making-immigration-law-on-the-us-mexico-border-1917-1954-oxford-up-2017>

Week 11: Law and Democratic Political Development

November 14 ~ 88 pgs of reading

- Read: Excerpts (pgs. 1-11) of Tom Ginsburg, *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*, Introduction (Cambridge University Press, 2003).
- Read: Ran Hirschl, “The Judicialization of Politics,” in *The Oxford Handbook of Political Science* (Oxford University Press, 2011): 1-19.
- Read: Ran Hirschl, 2000. “The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from four constitutional revolutions,” *Law & Social Inquiry* 25 (1): 91-149.

Final essay prompt posted (via Quercus) no later than Thursday, November 14

Third online quiz (via Quercus) due by Friday, November 15 at 11:59PM

Week 12: Law and Authoritarian Political Development

November 21 ~ 85 pgs of reading

- Read: Tamir Moustafa & Tom Ginsburg, “Introduction: The Functions of Courts in Authoritarian Politics,” in *Rule by Law: The Politics of Courts in Authoritarian Regimes* (Cambridge University Press, 2008): 1-22.
- Read: Excerpts (pgs. 1-14, 54-79) of Fiona Shen-Bayh, *Undue Process: Persecution and Punishment in Autocratic Courts*, Chapters 1 & 3 (Cambridge University Press 2023).
- Read: Excerpts (pgs. 1-8, 238-254) of Egor Lazarev, *State-Building as Lawfare: Custom, Sharia, and State Law in Postwar Chechnya*, Chapters 1 & 8 (Cambridge University Press, 2023): pgs. 1-8, 238-254.

Week 13: Law and Democratic Backsliding

November 28 ~ 65 pgs of reading

- Read: Kim Lane Scheppele, 2013. “Not Your Father’s Authoritarianism: The Creation of the ‘Frankenstate,’” *Newsletter of the European Politics and Society Section of the American Political Science Association* 23: 5-9.
- Read: Kim Lane Scheppele, 2018. “Autocratic Legalism,” *University of Chicago Law Review* 85 (2): 545-584.
- Gamboa, Laura, Garcia-Holgado, Benjamin, and Ezequiel Gonzalez-Ocantos. 2024. “Courts Against Backsliding: Lessons from Latin America.” *Law & Policy* (early view): 1-22.

Final essay due Thursday, November 28 by 11:59PM (submitted via Quercus)

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 excused absences: I will grant excused absences if you e-mail me before class and register your absence using the Absence Declaration tool on ACORN (<https://www.acorn.utoronto.ca/>); we can then discuss ways of making-up the material missed. In lieu of an Absence declaration, other documentation can also be the basis of an excused absence, such as a College Registrar's letter, a letter of accommodation from Accessibility Services, a Verification of Student Illness or Injury (VOI) form, or a doctor's note. The VOI indicates the impact and severity of the illness, while protecting your privacy about the details of the nature of the illness: <http://www.illnessverification.utoronto.ca> Also, please e-mail me or come to office hours to discuss any anticipated absences related to religious observances or family care and the implications for course work.

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 your letter of accommodation, or have a representative from Accessibility Services e-mail me the letter, as soon as you have it so that we can plan ahead and I can support you in a timely manner.

On assignment extensions: If an exceptional or unforeseen circumstance arises (ex. an illness or family emergency) and obstructs you from completing an assignment, e-mail me right away and we will discuss a possible extension. I may ask you to provide documentation, such as a Verification of Student Illness or Injury (VOI) form, or a doctor's note. The VOI indicates the impact and severity of the illness, while protecting your privacy about the details of the nature of the illness: <http://www.illnessverification.utoronto.ca> If you have a letter from Accessibility Services that provides for assignment extensions under some circumstances, share it with me well before an assignment is due so that we can discuss and arrange an extension. *Extensions are not automatic.*

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/>). 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>

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/>
- Need help with writing your final essay? Seek the assistance of one of the writing centers on the St. George campus: <https://writing.utoronto.ca/writing-centres/arts-and-science/>
- Experiencing computer issues? Get IT support here: <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/>