Overview

This course provides an overview of research that advances our understanding of law and courts from a social science perspective. While we will occasionally reference the US Supreme Court, our focus will be on studies of other US appellate courts. In the introduction to this course, we will examine the organization of the lower courts, including judicial recruitment processes. Then, we will turn our attention to research on models of decision making that hold relevance for understanding policy making and processes in (lower) appellate courts. In this section of the course, we will also take a “hands on” approach so that students will become familiar with data sources and measures used to study the U.S. Courts of Appeals.

In the second half of the course, we will study diversity on the courts, with a particular focus on judges. Our class sessions will draw on social science theories and empirical research to explore a wide range of questions: Does judicial diversity affect legitimacy? How does race, ethnicity, and/or gender affect judicial ambition and selection? Do these traits shape judicial policy predispositions and decision making? Does a judge’s identity and other background experiences affect opinion writing? Does the demographic composition of a court shape other deliberative processes, including oral argument? In addition to law and courts research, we will draw on scholarship from multiple political science subfields and other disciplines to develop our understanding of concepts, theories, and methodological approaches.

Requirements and Grading

Your grade will be based on the following:

1. One critical review of the scholarly literature assigned for class, including any recommended background readings. I will provide more guidance on how to write a literature review on ELC. Other than the sessions scheduled for February 5th and March 15th, you may select any session, beginning with our second meeting (January 22nd), as long as it is not one where you are a discussion leader. (25%). Your literature review must be submitted (electronically) prior to the class meeting.

2. Group data collection and analysis project (20%): As of November 1, 2019, President Trump had appointed 43 judges to the U.S. Courts of Appeals; by comparison, Obama had appointed 48 judges over two terms and G.W. Bush named 60. Drawing on previous scholarship that suggests a link between judicial
selection processes and decision making, each small group (3-4 students) will be charged with collecting and analyzing data to compare policymaking outcomes/process by Trump appointees with those appointed by other presidents on one of the (12) U.S. courts of appeals (excluding the federal circuit). In the initial step of this project, students will become familiar with the Multi-User Database of US Courts of Appeals decisions and develop a coding process for a limited set of variables that is consistent with the conventions used for this database. Each group will then use WESTLAW to pull a sample of (published) court opinions (minimum of 50 cases), code information from the opinions, compile the data, and then present a descriptive analysis (as a power point) on February 26th.

3. Original research paper. The specific requirements for this paper will vary with the student’s degree program. All students will identify a research question or problem, review relevant scholarship, outline expectations, and provide a detailed observation strategy for evaluating your expectations (measures and data). PhD students will use an appropriate statistical model to test their expectations and interpret the findings of the data analysis. All other students will conduct an analysis that draws on their skills acquired from their previous coursework. All students will present their research at the end of the semester. A detailed paper proposal is due by February 12th; the list of references to be used for the review of the scholarly literature and a description of the observation strategy are due by March 4th. Presentations will take place on April 8th or 22nd with final drafts of papers submitted no later than May 1st (35%)

4. Preparation for class meetings and general contributions to our discussion (10%). For one class session, you will circulate a list of 3 discussion points/questions two days prior to the seminar and then lead (or co-lead) the discussion in class (10%). You must sign up for a session by January 20th (first come-first served). No more than two students can share discussion responsibilities for any single class.

Academic honesty. All students are responsible for maintaining the highest standards of honesty and integrity in every phase of their academic careers. The penalties for academic dishonesty are severe and ignorance is not an acceptable defense. All academic work for this course must meet the standards contained in "A Culture of Honesty." Students are responsible for informing themselves about those standards before performing any academic work. The penalties for academic dishonesty are severe, and ignorance is not an acceptable defense.

The following is a TENTATIVE and PARTIAL schedule of readings and assignments.

******Our first meeting will be held on January 15th due to the SPSA. Given that we will not meet on January 8th, it is expected that students will be prepared (having completed the readings) for class on the 15th******


Recommended background reading:
Chapters 4 and 5 from Corley, Ward, and Martinek’s American Judicial Process (will be uploaded to ELC). If you are well-versed on American courts and process, you will only need to skim these chapters

2. Decision making, U.S. Courts of Appeals – January 22nd


Recommended background reading:


3. “Top-down, bottom-up, and across”: perspectives on law, hierarchy, and precedent – January 29th


Recommended background reading:
4. a) Litigants, advocates b) data and measures – February 5th


Recommended background reading:

Kritzer, H.M., 2003. The government gorilla. *In Litigation: Do the" Haves" Still Come Out Ahead.* (will upload copy to ELC)

b) Data, measures, and “cool tools”: *readings and links to be uploaded to ELC*

Part II.

1. (a) Descriptive representation and legitimacy – February 12th


Goelzhauser, G. (selection to be uploaded to ELC) 2019. “Descriptive representation (intersectionality) and state supreme courts”

(b) Ambition – February 12th


2. Studying the effect of sex/gender – February 19th

a) Individual differences


Haire, S.B. and Moyer, L.P., 2015. *Diversity matters: Judicial policy making in the US Courts of Appeals*. University of Virginia Press (chapter on women judges and “splitting the difference”-- will be uploaded to ELC)


Recommended background:
Carol Gilligan, "In a Different Voice: Women's Conceptions of Self and of Morality," (selections, will upload to ELC)


b) Organizational settings


Moyer, L., Szmer, J., Christensen, R. & Haire, S. 2019. “All Eyes are on You”: Gender and Majority Opinion Writing on the U.S. Courts of Appeals” (will be uploaded to ELC)

February 26th – group presentations

3. Race, ethnicity – March 4th


Washington, Linn. *Black judges on justice: Perspectives from the bench*. New Press, 1994 (selections to be uploaded to ELC)

Recommended background:

March 11th – spring break
March 18th – new and forthcoming lines of inquiry (readings and links TBA)

4. March 25th

a) Intersectionality/ race and gender


b) Diversity and deliberative processes


Sommers, Samuel R. 2006. "On racial diversity and group decision making: identifying multiple effects of racial composition on jury deliberations." Journal of personality and social psychology 90.4: 597

Review Boyd et al and Kastellec articles, with an emphasis on those parts of the articles that focus on the presence of women and minorities

Recommended background:

April 1st

Other aspects of diversity scholarship

*Handbook of social psychology.* Springer Us., 29-51 (selections uploaded to ELC)


Eagly, A.H., 2016. When passionate advocates meet research on diversity, does the honest broker stand a chance?. *Journal of Social Issues, 72*(1), pp.199-200; p. 204-215


National Academies of Sciences, Engineering, and Medicine, 2018. *Sexual harassment of women: climate, culture, and consequences in academic sciences, engineering, and medicine.* National Academies Press. (selections)

April 8th, 22nd – presentations

Final paper due May 1st