



POL 422 – Judicial Politics

Winter 2026: Wednesdays, 3-5PM

Instructor: Prof. Tommaso Pavone

Office: Department of Political Science, Sidney Smith Hall 6026A

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

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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 Kenya in the 1970s.

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:

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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+ | |

Grade breakdown:

- 25 points: In-class participation
- 27 points: weekly online quizzes (3pts each starting on week 2; no quiz on week 10; can skip one)
- 13 points: Final paper proposal (~2 pgs) + participation in proposal workshop (due March 11)
- 35 points: Final paper (~10 pgs) due April 1

On Classes & Reading Load

This is a reading-intensive and discussion-centered seminar. By signing up for this course, you commit to preparing and actively discussing 40 to 80 pages' worth of readings a week (usually two to four pieces, such as book chapters and academic articles, although occasionally these will comprise news articles or shorter essays). I strive to select thought-provoking and engaging readings; nevertheless digesting scholarly research can be challenging (and slower-going), so you should plan for approximately 3-5 hours of reading per week.

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 usually begin class with opening remarks, and will use discussion questions, in-class exercises, and slides or visual materials to orient our conversations. However, the much of the 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*, *discussion*, and *coming to office hours*, as follows:

- Everyone will start off with a participation grade of 17/25. Actively participating ss will *increase* your participation grade, whereas missing classes will *decrease* your participation grade.
- Active discussion in class will raise your participation grade (by up to 4-6 points for active and thoughtful discussion, and 1-3 points for infrequent or superficial discussion). While you should always try to participate, an occasional but thoughtful response or engaging comment is more valuable than lots of superficial or off-topic interjections.
- Coming to office hours at least once throughout the semester to discuss your plans for your research paper or to follow-up on course readings/in-class discussion will gain you up to another 2 points. Please come prepared with thoughtful questions and points for discussion.
- 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 registered and documentable reasons: be sure to consult the excused absence policy at the end of this syllabus.

Weekly Online Quizzes (27% of your grade)

Since preparing the readings before each class takes time and effort, you deserve to get credit for these efforts. So *beginning on Week 2 and for all subsequent weeks with assigned readings, there will be short knowledge-check quizzes* (to be completed on Quercus) that will be posted on Tuesdays at 12PM and due before class on Wednesdays at 3PM. If you carefully complete the readings for each week, you will achieve full marks on the quizzes.

Each quiz will comprise a few multiple-choice questions concerning the week's readings. The quizzes are open-book (but not collaborative – you are expected to complete them on your own and without

any AI assistance) and are designed to take no more than 15 minutes to complete. Nevertheless, you will have up to 90 minutes to complete the quizzes from the moment you open the quiz on Quercus.

Although there are 10 online quizzes worth 3 points each, you only have to complete 9 of 10 quizzes: you can skip one quiz (for instance, for a week where you are particularly work-loaded; or a week where you simply forget!). If you complete all 10 quizzes, your lowest scoring quiz will be dropped.

Final Paper Proposal + Participation in In-Class Workshop (10% of your grade)

For this class, you will have to complete a 10-page research paper (see the “Final Paper” section below for details). To get a head-start on the paper and provide you with constructive feedback, *on Week 10 (March 11) we will hold an in-class workshop where you will share and receive feedback on a proposal for the final paper.* Combined, the proposal and participation in the in-class workshop count for 13% of your grade: 10% for the proposal, 3% for participating in the workshop.

Specifically, before the workshop on March 11, you will submit a 2-page proposal for your final paper in PDF format (using 12-point Times New Roman font, double spaced with 1-inch margins) on Quercus under “Assignments.” Your proposal should discuss your initial answers to these questions:

1. What is your proposed research question/puzzle? How is this puzzle a “when/under what conditions” or “why” question that is relevant to the study of judicial politics (what debates/literature will it engage or advance)? (approx. 1 paragraph)
2. What is your proposed comparative case study research design? What is your preliminary case selection logic – i.e. why are your cases interesting or analytically appropriate to answer your research question/puzzle? (approx. 2 paragraphs)
3. What data are you planning to collect concerning the two cases you will compare to answer your research question? Where will you find the data, why is it relevant for answering your question, and how will you analyze it? (approx. 2 paragraphs)

Your proposal is worth 10% of your grade: so long as you make a clear and thoughtful effort to answer the above questions and followed the length/formatting guidelines, you will receive full credit.

For class on March 11, you must bring a printed copy of your proposal. You will share your proposal with your classmates to receive feedback, and in turn you will provide feedback on their proposals. I will provide you with guidance and we will walk through a proposal or two to discuss how to conduct a compelling comparative case study. Participating in the in-class workshop and bringing a printed copy of your proposal is mandatory and worth 3% of your grade – you will not get feedback on your proposal otherwise. If a documentable emergency or health issue precludes you from attending the workshop, e-mail me before class and we can discuss your proposal during office hours for credit.

Final Paper (35% of your grade)

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 35% of your grade. You will conduct a comparative case study to answer a research question or puzzle (concerning judicial politics) using empirical evidence. Your final paper will build on your proposal: the more effort you put into your proposal, the more of a head-start you will have.

This is your chance to finish your university career by writing an analytic paper of your choosing that pushes you to think for yourself. Writing is essential to your critical thinking and individual autonomy.

Consult the AI policy at the end of this syllabus, and then do your future self (and me) a favor: write the paper yourself. Embrace the challenge, push through the struggles, and take pride in producing research that is truly your own – so that when I read it and provide feedback, I am responding to you.

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 (a comparison of a change or shift over time) or you can compare the judicial politics of one legal order/country/court to another (a comparison of differences from place to place). 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 available.

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 you 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 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 is a resource that you might consult (and reference) in thinking through how to select your cases and justify your comparative case study design:
 - Sidney Tarrow, 2010. “The Strategy of Paired Comparison,” *Comparative Political Studies* 43 (2): 230-259.
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).

Your final paper is formally due on the last day of class, April 1, to be submitted on Quercus under “Assignments” (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, April 8 at 11:59PM*. Papers submitted after April 8 will be penalized by 5 points (i.e. 5% of your overall course grade) per day late, and I will no longer accept papers submitted after April 10. I will in exceptional circumstances grant extensions to the due date: please consult the assignment extensions policy at the end of this syllabus.

Class Schedule

Week 1: Introduction & Overview of Class

January 7 ~ no readings (except for syllabus)

- Read: This syllabus!

Week 2: Courts as Political Institutions

January 14 ~ 81 pgs of reading

- Read: Excerpts from Martin Shapiro, *Courts: A Comparative and Political Analysis*, Chapter 1 (University of Chicago Press, 1981): 1-37.
- Read: Alec Stone Sweet, 2007. “The Politics of Constitutional Review in France and Europe,” *International Journal of Constitutional Law* 5 (1): 69-92.
- Read: Ran Hirschl, “The Judicialization of Politics,” in *The Oxford Handbook of Political Science* (Oxford University Press, 2011): 253-274.

Online reading quiz (via Quercus) posted Tuesday, January 13; due before class Wednesday, January 14

Week 3: The Judicialization of Politics: Parties, Elites, and Judicial Empowerment

January 21 ~ 74 pgs of reading

- Read: Excerpts (pgs. 91-125) from Ran Hirschl. 2000. “The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from four constitutional revolutions,” *Law & Social Inquiry* 25 (1).
- Read: J. Mark Ramseyer. 1994. “The Puzzling (In)-Dependence of Courts: A Comparative Approach,” *Journal of Legal Studies* 23 (2): pgs. 721-747.
- Read: Keith Whittington. 2005. ““Interpose your friendly hand”: Political supports for the exercise of judicial review by the United States Supreme Court.” *American Political Science Review* 99 (4): 583-596.

Online reading quiz (via Quercus) posted Tuesday, January 20; due before class Wednesday, January 21

Week 4: Legal Mobilization I: Party Capability, or do the “Haves” Come Out Ahead?

January 28 ~ 73 pgs of reading

- Read: Songer, Donald, Sheehan, Reginald, & Susan Haire. 1999. “Do the “Haves” Come Out Ahead over Time? Applying Galanter’s Framework to Decisions of the US Courts of Appeals, 1925-1988.” *Law & Society Review* 33 (4): 811-832.
- Read: Szmer, John, Susan Johnson, & Tammy Sarver. 2007. “Does the Lawyer Matter? Influencing Outcomes on the Supreme Court of Canada.” *Law & Society Review* 41 (2): 279-303.
- Read: Silje Hermansen, Tommaso Pavone, & Louisa Boulaziz, 2025. “Leveling and Spotlighting: How the European Court of Justice Favors the Weak to Promote its Legitimacy,” *British Journal of Political Science* 55 e158: 1–28.

Online reading quiz (via Quercus) posted Tuesday, January 27; due before class Wednesday, January 28

Week 5: Legal Mobilization II: Legal Opportunity

February 4 ~ 65 pgs of reading

- Read: Gianluca De Fazio, 2012. “Legal Opportunity Structure and Social Movement Strategy in Northern Ireland and Southern United States.” *International Journal of Comparative Sociology* 53 (1): 3-18.
- Read: Ellen Ann Andersen, *Out of the Closets and into the Courts: Legal Opportunity Structure and Gay Rights Litigation*, Chapters 1 & 3 (University of Michigan Press, 2005): 1-16, 27-58.

Online reading quiz (via Quercus) posted Tuesday, February 3; due before class Wednesday, February 4

Week 6: Courts and Social Change I: From Unresponsive to Responsive Bureaucracies

February 11 ~ 75 pgs of reading

- Read: Excerpts (pgs. 13-30, 60-91) from Charles Epp, *Making Rights Real: Activists, Bureaucrats, and the Creation of the Legalistic State*, Chapters 1 & 4 (University of Chicago Press, 2009).
- Read: Ezequiel Gonzalez-Ocantos, 2014. “Persuade Them or Oust Them: Crafting Judicial Change and Transitional Justice in Argentina,” *Comparative Politics* 46 (4): 479-496.

Online reading quiz (via Quercus) posted Tuesday, February 10; due before class Wednesday, February 11

Week 7: Reading Week, no class

Week 8: Judicial Decision-Making I: Judicial Attitudes and Bias

February 25 ~ 40 pgs of reading

- Read: Glynn, Adam, & Maya Sen, 2015. “Identifying Judicial Empathy: Does having daughters cause judges to rule for women’s issues?” *American Journal of Political Science* 59 (1): 37-54.
- Read: Donghyun Danny Choi, J. Andrew Harris, and Fiona Shen-Bayh, 2022. “Ethnic Bias in Judicial Decision Making: Evidence from Criminal Appeals in Kenya,” *American Political Science Review* 116 (3): 1067-1080.
- Read: Ellen McGirt. 2016. “Researchers Uncover a New, Disturbing Bias in Juvenile Justice System.” *Yahoo Finance*, September 7: <https://finance.yahoo.com/news/researchers-uncover-disturbing-bias-juvenile-213058204.html>
- Read: Michaël Benesty. 2019. “The Judge Statistical Data Ban.” *Artificial Lawyer*, June 7: <https://www.artificiallawyer.com/2019/06/07/the-judge-statistical-data-ban-my-story-michael-benesty/>

Online reading quiz (via Quercus) posted Tuesday, February 24; due before class Wednesday, February 25

Week 9: Judicial Decision-Making II: Strategic Behavior and Institutional Constraints

March 4 ~ 48 pgs of reading

- Read: Epstein, Lee, & Jack Knight, *The Choices Justices Make*, Chapter 1 (CQ Press, 1998): 1-22.
- Read: Gretchen Helmke, 2002. “The Logic of Strategic Defection: Court-Executive Relations in Argentina Under Dictatorship and Democracy,” *American Political Science Review* 96 (2): 291-303.
- Read: Øyvind Stiansen, 2022. “(Non)renewable Terms and Judicial Independence in the European Court of Human Rights,” *Journal of Politics* 84 (2): 992-1006.

Online reading quiz (via Quercus) posted Tuesday, March 3; due before class Wednesday, March 4

Week 10: Final Paper Proposal In-Class Workshop

March 11 ~ no readings + (final paper proposal due)

Final paper proposal due Wednesday, March 11; bring printed copy to class

Week 11: Courts and Social Change II: Judicial Impact, or Lack Thereof?

March 18 ~ 72 pgs of reading

- Read: Excerpts (pgs. 9-20, 42-54) from Gerald Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?*, Chapters 1 & 2 (University of Chicago Press, 2008).
- Read: Thomas Keck, 2009. “Beyond Backlash: Assessing the Impact of Judicial Decisions on LGBT Rights,” *Law & Society Review* 43 (1): 151-186.
- Read: Pavone, Tommaso, and Øyvind Stiansen. 2022. “The Shadow Effect of Courts: Judicial review and the politics of preemptive reform,” *American Political Science Review* 116 (1): 322-336.

Online reading quiz (via Quercus) posted Tuesday, March 17; due before class Wednesday, March 18

Week 12: Judicial Politics in Authoritarian States

March 25 ~ 61 pgs of reading

- Read: Moustafa, Tamir, & 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) from Fiona Shen-Bayh, *Undue Process: Persecution and Punishment in Autocratic Courts*, Chapters 1 & 3 (Cambridge University Press 2023).

Online reading quiz (via Quercus) posted Tuesday, March 24; due before class Wednesday, March 25

Week 13: Courts and the Breakdown of Democracy

April 1 ~86 pgs of reading (+ final paper due)

- 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* 46 (4): 358-379.
- Kureshi, Yasser. 2025. “To Reinforce or Replace: Courts and Democratic Backsliding.” *Government and Opposition*: 1-26.

Online reading quiz (via Quercus) posted Tuesday, March 31; due before class Wednesday, April 1

Final paper due April 1 (but no late penalty if submitted before Wednesday, April 8 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 ChatGPT/generative AI: You can use ChatGPT/generative AI in a strictly limited sense in this course: to help you brainstorm ideas, or to check your spelling/grammar. You cannot use AI to write your paper proposal or final paper itself: you are responsible for your own work and its accuracy (beware that AI is known to make up facts and citations), and your writing must be your own, conveyed in your own words. Using AI to produce your written assignments in this course is an academic offence – see: <https://www.academicintegrity.utoronto.ca/perils-and-pitfalls/using-chatgpt-or-other-ai-tool-on-a-marked-assessment/>

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. I cannot provide accommodations if you only share your accessibility letter at the conclusion of the course or after assignments are due.

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 the possibility of 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.
- Using ChatGPT or generative AI to write your assignments for the course.

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/>