

**Political Science 263/263W  
Comparative Law and Courts  
Mondays 2-4:40  
Harkness 329**

Professor Gretchen Helmke  
Office: 323 Harkness Hall  
Office Hours: Thursday: 2-4  
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This course examines courts from a comparative perspective. By the end of the 20<sup>th</sup> century, the growing power of courts abroad has led to the so-called “judicialization of politics.” Yet, difficulties in establishing and maintaining independent judicial institutions continue to plague governments around the world. The overarching goal of this course is to understand why, when, how, and where courts function or fail to function

Student responsibilities include presenting the readings by briefly summarizing in a 10-15 minute presentation the main points and raising important questions and criticisms. A one-two page handout of notes for the entire class should be provided. The number of readings each student is responsible for leading will depend on the size of the seminar. A sign-up sheet will be circulated the first week of class.

### Exams

There will be one in-class midterm and a take-home final. Both exams will be based on the assigned readings and class discussion. The midterm will contain identification terms, short questions, and essays. A list of possible identification terms will be distributed prior to each exam. The final exam will be in an essay format.

### Make-Up Policy

Make-up exams and assignments will be given only under the most exceptional circumstances. Exams will not be re-scheduled to accommodate other courses. Missed exams or assignments due to illness require a doctor's note.

### Term Paper (Only for Students Taking the Course for "W")

Each student will choose a country and topic on which they will write a 10-12 page research paper. Students should be prepared to hand in a 1-2 paragraph description of their topic on February 18<sup>th</sup>. Annotated bibliographies are due no later than March 24<sup>th</sup>. A draft is required and can be turned in anytime on or before April 7<sup>th</sup>. **Final Papers are due at the beginning of class on Monday, April 21<sup>st</sup>. Late papers will not be accepted.**

### Books

The following books are required and available for purchase at the Campus Bookstore:

Martin Shapiro. 1981. *Courts: A Comparative Political Analysis*. University of Chicago Press.

Lee Epstein and Jack Knight 2r.0005aP ~~M~~ Tc -0.00011 Tw 12 0 0 12 221.519J92Tjoic TmJudg TmMakeEps

## Weekly Class Schedule

**Week 1: No Class—MLK Day**  
**1/21**

**Week 2: Course Introduction: Judicial Independence in Comparative Perspective**  
**1/28**

Martin Shapiro. 1981. *Courts: A Comparative Political Analysis*. University of Chicago Press. Chapter 1.

Christopher Larkins. 1996. “Judicial Independence and Democratization: A Theoretical and Conceptual Analysis,” *American Journal of Comparative Law*. pp.605-626.

John Ferejohn, Frances Rosenbluth, and Charles Shipan. 2007. “Comparative Judicial Politics” *Oxford Handbook of Comparative Politics*. Cambridge University Press.

**Week 3: Explanations of Judicial Independence I: Information, Bargaining, and Competition**  
**2/4**

William Landes and Richard Posner. 1975. “The Independent Judiciary in an Interest Group Perspective,” *Journal of Law and Economics* 18: 875-902.

Eli Salzberger. 1993. “A Positive Analysis of the Doctrine of the Separation of Powers, or: Why do We Have an Independent Judiciary?” *International Review of Law and Economics* 13:340-79.

Mark J. Ramseyer. 1994. “The Puzzling (In)dependence of Courts: A Comparative Approach,” *Journal of Legal Studies* 23:721-747.

**Week 4: Explanations of Judicial Independence II: Delegation**  
**2/11**

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).

Stephen Holmes. 2003. “Lineages of the Rule of Law,” in *Democracy and the Rule of Law* (edited by Adam Przeworski and José María Maravall). Cambridge University Press.

Beatriz Magaloni and Arianna Sanchez. 2006. “An Authoritarian Enclave? The Supreme Court in Mexico’s Emerging Democracy” ms.

**Week 5: Judicial Independence and Institutional Design**  
**2/18**

Alexander Hamilton. 1787. No. 78, *Federalist Papers*.

Tom Ginsburg. 2002. "Economic Analysis and the Design of Constitutional Courts" *Theoretical Inquiries in Law* 3(1): 2-38.

Lee Epstein, Jack Knight, Olga Schvetsova. 2002. "Selecting Selection Systems" in *Judicial Independence at the Crossroads: An Interdisciplinary Approach*. Edited by Stephen Burbank and Barry Friedman. Sage Publications. pp. 191-226.

*W Students: Paper Topics Due in Class*

**Week 6: Midterm**  
**2/25**

Pasquino Pasquale and John Ferejohn. 2004. "Constitutional Adjudication: Lessons From Europe" *University of Texas Law Review*, vol 82, 1671-1704.

Georg Vanberg. 2005. *The Politics of Constitutional Review in Germany*. Cambridge University Press (Chapter 4)

*W Students: Annotated Bibliography Due in Class*

**Week 11: No Class**

**3/31**

**Week 12: Russia and Eastern Europe**

**4/7**

Erik Herron and Kirk Randazzo. 2003. "The Relationship Between Independence and Judicial Review in Post-Communist Courts" *Journal of Politics* 65:422-38.

Vanessa Baird and Debra Javelin. 2007. "The Persuasive Power of Russian Courts" *Political Research Quarterly* 60(3)

Shannon Smithey and John Ishiyama. 2000. "Judicial Activism in Post-Communist Politics" *Law and Society Review* 36(4)

*W Students: Last Day to Turn in Drafts*

**Week 13: Latin America**

**4/14**

Gretchen Helmke. 2005. *Courts Under Constraints: Judges, Generals, and Politicians in Argentina*. Cambridge University Press (Chapters 2 & 6)

Jeffrey Staton. 2007. *mbmbmudiommmme Relatiurn Mexicoa. m*

**4/28**

Tom Ginsburg. 2003. *Judicial Review in New Democracies*. Cambridge University Press (Chapter 5)

Martin Shapiro. 1981. *Courts: A Comparative Political Analysis*. University of Chicago Press (Chapters 4-5).

**Take-Home Final Hand-Out at the end of class on 4/28. Due at 5 pm May 1<sup>st</sup>.**