POLI 330: Law and Courts in Europe

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Course Description
This course is an introduction to judicial politics in Europe. We will examine the conceptual, theoretical, and empirical foundations of the study of the rule of law and the role of courts in European politics. The conceptual discussion will focus on the elements of the rule of law doctrine, the multiple definitions of judicial independence, and the judicialization of politics. The theoretical discussions will focus on the dominant theories of the emergence and sustainability of independent courts and the trend towards judicial empowerment. The empirical examples will be diverse: contemporary and historical European experiences, Western and Eastern European states, democratic, authoritarian, and post-authoritarian regime settings, and constitutional and ordinary judiciaries.

Learning Outcomes
By the end of this course you should be able to:
- Read theoretical materials selectively;
- Formulate critical questions based on the readings you have done;
- Utilize multiple research databases relevant to political science and law;
- Write in a concise, clear manner;
- Develop original, critical arguments based on research and present these in written form;
- Understand the key differences between the ordinary judiciary in the civil law tradition and in the common law tradition;
- Compare the constitutional judiciary in the civil law tradition with the constitutional judiciary in the common law tradition;
- Understand the particular role of the European Court of Human Rights;
- Identify characteristics of criminal law prosecutions in a civil law system;
- Assess whether judges are independent and how politics are effected by judicial roles, by identifying historical reasons and applying correlating theories;
- Critically evaluate different roles played by judges in different European jurisdictions, based on authoritarian, democratic or hybrid regimes;

There will be a strong emphasis on writing skills in this course. As future political scientists, lawyers, journalists, politicians or whatever aspirations you hold, the ability to inform yourself, form opinions and communicate information and arguments in a clear, accessible and effective manner will be an essential skill.

Course Assessment
Students will be evaluated on the basis of three measures:
1) Conference participation (20%)
2) Blog assignment (30%)
3) Final term paper (50%)

1) Conference Participation (20%)
You should register for a conference time on Minerva as soon as possible. Conferences will begin during the third week of classes, in the week of 25 February, and attendance is mandatory. Your conference grade will be based on a combination of (a) your participation in group discussions and exercises dedicated to preparing for the written assignment (10%); and (b) your ability to answer a weekly reflection question and/or to respond to other groups’ blogs (10%). Conferences will be led by the TA.

2) Blog assignment (30%)
A blog will be set up on Wordpress which will be accessible to all students of the class, the TA and the professor starting on Monday 1 February. You will form groups of up to 5 people during your first conference meeting, and each group will be allocated a country to focus on.

This assignment is in two parts:

(a) Each group will be required to post three descriptive blog posts between February 1 and February 26;
(b) the fourth and final blog post will be written in the form of an opinion piece, to be posted by Friday March 4 at the latest.

The completion of both parts of this assignment will be worth 30% of your final grade. The group members will all receive the same grade for 25%, the final 5% will be individual and will be based on peer assessment, to be filled out during the conference in the week of March 7th.

(a) Three descriptive blog posts (15% of the grade for this assignment)
The first three blog posts require research skills and the ability to convey information in a clear, concise and interesting manner. It also requires groups to work together. These first three blog posts should discuss the structure of the judicial system and the relationship between the country’s judiciary and the political establishment. The three posts should cover at least some of the following topics:
1) What is the structure of the ordinary judiciary?
2) How is the ordinary judiciary appointed? Are there specific training or education requirements?
3) How is the constitutional judiciary appointed/selected?
4) What is the scope of the jurisdiction of the constitutional court?
5) How accessible is the constitutional court to the ordinary citizen?

(b) Opinion blog post (10% of the grade for this assignment)
The final, fourth blog post shall be written as an opinion piece, and can be in the form of an Op-ed. This part of the assignment focuses on the skills required to write a persuasive piece that is accessible to lay people. An Op Ed is primarily an opinion piece that presents an informed and original view on a newsworthy topic. Consider a recent event in the country you have been assigned, or the ways in which a recent event in another European country could impact the country you have been assigned. You may consider the following points in your discussion:
1) Is the Constitutional Court a powerful, activist, and/or independent institution, or is it’s role more symbolic?
2) Could one say the ordinary judiciary has been politicized?
3) Could one argue that there is a trend towards the judicialization of politics?
4) Is there reason to say the role of courts impacts too much or not enough on the democratic legitimacy of the State?
5) Could one say that the European Court of Human Rights has had a positive or negative impact on the or on the judiciary, or on the politics of human rights and democracy?

The following links provide very useful information about writing Op Eds and you should read them carefully before beginning.


The blog posts should be between 500 and 750 words each. We will spend time in some of the lectures and some of the conferences discussing what is involved in researching and writing these blog posts, and you will also be expected to comment on other groups’ blog posts as part of your individual participation grade.
Assessment will be based on a full rubric that will be distributed to you the week before the blogging assignment begins, and discussed in class. In brief the criteria are as follows: (1) formatting and writing; (2) timeliness; (3) quality of information; (4) use of multimedia; (5) originality.

3) Final Term paper (50%)

The final term paper will be worth half your final grade. As such we will be paying attention to the requirements of a good, argumentative piece of writing in at least one of the lectures and in some of the conferences. These requirements include: formulating a research question from the topic; formulating sub-questions to answer the research question; structure; forming an argument; research and citation.

The term paper shall be between 10 and 12 pages, *ou un maximum de 15 pages si vous écrivez en Français.*

The paper will be due by **Wednesday 6 April at 17:00** at the latest. No extensions will be given and late submissions will receive a penalty of 10% per day.

A set of topics will be provided in the first week of classes, from which you may choose. A full grading rubric will also be provided to you, and will be discussed in class, so you know what is expected.

**On Academic Integrity and Submitting Written Work in French**
McGill University values academic integrity. Therefore all students must understand the meaning and consequences of cheating, plagiarism and other academic offences under the Code of Student Conduct and Disciplinary Procedures (see [www.mcgill.ca/integrity](http://www.mcgill.ca/integrity) for more information).

L'université McGill attache une haute importance à l'honnêteté académique. Il incombe par conséquent à tous les étudiants de comprendre ce que l'on entend par tricherie, plagiat et autres infractions académiques, ainsi que les conséquences que peuvent avoir de telles actions, selon le Code de conduite de l'étudiant et des procédures disciplinaires (pour de plus amples renseignements, veuillez consulter le site [www.mcgill.ca/integrity](http://www.mcgill.ca/integrity)).

In accordance with McGill University’s Charter of Students’ Rights, students in this course have the right to submit in English or in French any written work that is to be graded, including the blog posts.

**Other issues**
If you have a disability and you would like to discuss the issue with me, please contact me to arrange a time to meet. It would be helpful if you contact the Office for Students with Disabilities at 514-398-6009 before you do this.

End-of-term course evaluations are one of the ways that McGill works towards maintaining and improving the quality of courses and the students’ learning experience. You will be notified by e-mail when the evaluations are available on Mercury, the online course evaluation system. Please note that a minimum number of responses must be received for results to be available to students.


**Required Readings**
This course requires a significant amount of reading, so be prepared. If you fall behind it will be difficult to catch up. Readings include:

Readings available online or on MyCourses

The book is available for purchase at Paragraphe Bookstore. All other readings will be made available either directly on MyCourses, or with a link to an online location accessible through McGill’s library subscriptions.

**Lecture and Reading Schedule**

The following symbols are used below:

- indicates readings from the book
- indicates readings that are available online: a hyperlink will be provided below where possible, otherwise please check MyCourses

**PART I: THE STRUCTURE OF EUROPEAN JUDICIARIES**

**Week 1**
January 13: Introduction

**Week 2**
January 20: The civil law tradition


**Week 3**
January 27: Library research skills presentation by Librarian Deena Yanofsky


**January 29: Process and professions in the civil law**


NB: In this class we will discuss the group assignment in detail. In preparation, please read the assignment description above, and the following links:

http://www.mcgill.ca/mwc/routes-writing/greene-david

http://www.mcgill.ca/mwc/routes-writing/jukier
Week 4
February 3: Procedure and constitutional review in civil law
► John Merryman, The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America 3rd edition (Stanford University Press, 2007), pp. 112-142

February 5: A revision

Week 5
February 10: Criminal prosecution in the civil law countries:
❖ Watch this episode of “The Good Wife”: http://putlocker.is/watch-the-good-wife-tvshow-season-4-episode-12-online-free-putlocker.html

February 12: Criminal prosecution in the civil law countries:

Week 6
February 17: Criminal prosecution in the civil law countries:
❖ Independent Commission Against Corruption, Inquisitorial Systems of Criminal Justice and the ICAC: A Comparison, November 1994, pp. 4-30

February 19: Criminal prosecution in the civil law countries:

Week 7
February 24: Power, activism, (in)dependence, and accountability
February 26: Power, activism, (in)dependence, and accountability
❖ Christoph Hönnige, "Beyond Judicialization: Why We Need More Comparative Research About Constitutional Courts.” European Political Science 10, no. 3 (2010): 346-358
NB: In this class we will also discuss the writing of an Op-ed/opinion blog, which is part of the group assignment. In preparation, please read the assignment description above, and the following links:


READING WEEK: FEBRUARY 29 TO MARCH 4.  
Please Note The Final Blog Post Is Due By March 4 At The Latest.

PART II: COURTS AND POLITICS IN EUROPE

Week 8
March 9: Constitutional Courts: Accessibility, justiciability, procedure, and compliance


March 11: Constitutional Courts: Accessibility, justiciability, procedure, and compliance


NB: In this class we will discuss what is expected for the final term paper, including discussion of formulating sub-questions, structure, and forming an argument.

Week 9
March 16: Constitutional Courts as legislators and as guarantors of rights


March 18: The power of Constitutional Courts: Judges governing


 Ran Hirschl, Towards Juristocracy: The Origins and Consequences of the New Constitutionalism (Harvard University Press, 2004), pp. 31-49
Week 10
March 23: The supranational relationship between the European Court of Human Rights and national constitutional courts

March 25: NO CLASS (EASTER BREAK)

Week 11
March 30: European legal culture and Eurolegalism

April 1: Ordinary courts in democracies
❖ Maria Popova, "Why Doesn't the Bulgarian Judiciary Prosecute Corruption?." Problems of Post-Communism 59, no. 5 (2012): 35-49

Week 12
April 7: Film Screening: Vlast (2010).
The screening will take place in a location to be confirmed, at 17:00-19:00. This will replace the lectures of April 6 and 15. Attendance is mandatory. You don’t need to sign up anywhere.

April 8: Ordinary courts in authoritarian regimes

Week 13
April 13: Ordinary courts in hybrid regimes
❖ Maria Popova, Politicized Justice in Emerging Democracies (Cambridge University Press, 2012), pp 14-43

April 15: No lecture