

Syllabus

Legal Studies 138: The Supreme Court and Public Policy

Professor: Kevin Quinn
GSI: Cait Unkovic
Fall Semester 2014

Classroom
Wheeler 213
8:00am to 9:30am
Tuesday & Thursday

Office
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Preliminaries

Overview

Most commentators assume that Supreme Court decisions have a direct and substantial impact on public policy. However, such a move ignores many of the realities of the policy process. For instance, how will lower courts interpret the decision? How will other governmental actors implement the decision? How will the U.S. population at large respond to the decision? Will the relevant actors comply with the decision? Even if the decision is faithfully implemented will there be unintended consequences?

To get some traction on these questions, and the broader question of whether the Supreme Court really can be an engine for major social change, we will examine the legal and political science literature on the implementation and impact of judicial decisions. In addition, we will read many of the relevant opinions themselves.

Class Requirements

Students are required to: attend lecture and section, carefully read any assigned material *before* lecture or section, and to participate appropriately. Your section syllabus will have more detailed information about what your GSI expects from you.

Students' final grades will be based on the following three factors:

- mid-term examination (30% of final grade)
- final examination (50% of final grade)
- section attendance and participation (20% of final grade)

Professor Quinn will not participate in grade disputes. If you would like to challenge a grade received from your GSI, please refer to your section syllabus for how to do so.

Incompletes will not be given in this course

Attendance will be taken during the first two weeks of class during lecture and section. Students who do not attend lecture and/or section in the first two weeks may be dropped from the class roster to make room for students on the waitlist who have been attending.

You must attend the section in which you are enrolled. Furthermore, all class and section registrations must be done through Telebears.

Office Hours and Availability

Professor Quinn will hold office hours on Wednesdays from 10:15am to noon. Please sign up for office hours using the signup form on bSpace.

Professor Quinn's email address is kquinn@law.berkeley.edu. He checks his email once per day and will try to respond within 48 hours. Professor Quinn will not answer substantive questions about the reading or lecture via email. Those questions can, and should, be raised during office hours. To ensure your email gets the attention it deserves, please put the course number (LS 138) in the subject line.

Cait Unkovic will also hold office hours. These office hours will be announced during section meetings. Please see your section syllabus for your GSI's email policy.

Accommodation Policy

We will abide by the UC Berkeley campus plan for accommodating the academic needs of students with disabilities. Information on the accommodation policy can be found at:

<http://dsp.berkeley.edu/accommodationpolicy.html>. Please contact both Professor Quinn and Cait Unkovic as soon as possible if you require accommodation under this policy. Prompt notification will help us make sure that you receive appropriate accommodation.

Course Website

The course website is available via bSpace.

Course Reading

There are five required books for this course. They are:

Required Books

Ansolahehere, Stephen and James M. Snyder. 2008. *The End of Inequality: One Person, One Vote and the Transformation of American Politics*. New York: W. W. Norton & Company.

Canon, Bradley C. and Charles A. Johnson. 1998. *Judicial Policies: Implementation and Impact* (2nd edition). Washington, DC: CQ Press.

Klarman, Michael J. 2004. *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality*. Oxford University Press.

Murphy, Walter F., C. Herman Pritchett, Lee Epstein, and Jack Knight. 2006. *Courts, Judges, & Politics: An Introduction to the Judicial Process*. 6th Edition. Boston: McGraw Hill.

Rosenberg, Gerald. 2008. *The Hollow Hope: Can Courts Bring About Social Change?*. 2nd Edition. Chicago: University of Chicago Press.

In addition, the required reading for some weeks will include a small number of academic articles and / or court opinions. These are available on the course website.

Preliminary Schedule

The following is a preliminary schedule of course topics. It is a rough guide to what we will be covering and may well undergo some changes over the semester.

Thursday August 28: Course Overview

Required Reading

Chapter 1 of Murphy et al.

Tuesday September 2: Background Normative Issues

Required Reading

Chapter 2 of Murphy et al.

Thursday September 4: The Organization of the U.S. Judicial System

Required Reading

Chapter 3 of Murphy et al.

Tuesday September 9: Access to Judicial Power

Required Reading

Chapter 6 of Murphy et al.

Thursday September 11: Instruments of Judicial Power

Required Reading

Chapter 7 of Murphy et al.

Tuesday September 16: Checks on Judicial Power

Required Reading

Chapter 8 of Murphy et al.

Thursday September 18: Statutory Interpretation

Required Reading

Chapter 11 of Murphy et al.

Ferejohn, John A. and Barry R. Weingast. 1992. "A Positive Theory of Statutory Interpretation." *International Review of Law and Economics*. 12: 263-279.

Tuesday September 23: Constitutional Interpretation

Required Reading

Chapter 12 of Murphy et al.

Thursday September 25: The Interpreting Population I

Required Reading

Chapter 2 of Canon and Johnson

Tuesday September 30: The Interpreting Population II

Required Reading

Regents of the University of California v. Bakke, 438 U.S. 265 (1978)

No Author. 1997. "Recent Cases: Constitutional Law. Equal Protection. Fifth Circuit Holds That Educational Diversity Is No Longer a Compelling State Interest. *Hopwood v. Texas*, 78 F.3d 932 (5th Cir.), Cert. Denied, 116 S. Ct. 2581 (1996)." *Harvard Law Review*. 110: 775-780.

Gratz v. Bollinger 539 U.S. 244 (2003)

Grutter v. Bollinger 539 U.S. 306 (2003)

Thursday October 2: The Implementing Population I

Required Reading

Chapter 3 of Canon and Johnson

Tuesday October 7: The Implementing Population II

Required Reading

School District of Abington Township v. Schempp, 374 U.S. 203 (1963)

Birkby, Robert H. 1966. "The Supreme Court and the Bible Belt: Tennessee Reaction to the Schempp Decision." *Midwest Journal of Political Science*. 10: 304-319.

Mapp v. Ohio, 367 U.S. 643 (1961)

Thursday October 9: The Consuming Population I

Required Reading

Chapter 4 of Canon and Johnson

Miranda v. Arizona 384 U.S. 436 (1966)

Tuesday October 14: The Consuming Population II

Required Reading

Cassell, Paul G. 1996. "Miranda's Social Costs: An Empirical Reassessment." *Northwestern University Law Review*. 90: 387-499.

Schulhofer, Stephen. 1996. "Miranda's Practical Effect: Substantial Benefits and Vanishingly Small Social Costs." *Northwestern University Law Review*. 90: 500-563.

Thursday October 16: The Secondary Population I

Required Reading

Chapter 5 of Canon and Johnson

Tuesday October 21: The Secondary Population II

Required Reading

Roe v. Wade, 410 U.S. 113 (1973)

Canon and Johnson, 1998, pp. 3-16

Franklin, Charles H., and Liane C. Kosaki. 1989. "Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion." *American Political Science Review*. 83: 751-771.

Hoekstra Valerie J., and Jeffrey A. Segal. 1996. "The Shepherding of Local Public Opinion: The Supreme Court and the Lamb's Chapel." *The Journal of Politics*. 58: 1079-1102.

McGuire, Kevin T. and James A. Stimson. 2004. "The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Opinion." *The Journal of Politics*. 66: 1018-1035.

Thursday October 23: Midterm Exam

Tuesday October 28: The Impact of Judicial Decisions I (Conceptual Issues)

Required Reading

pp. 1-36 of Rosenberg

Thursday October 30: The Impact of Judicial Decisions II (Civil Rights)

Required Reading

Chapters 2 and 3 of Rosenberg

Tuesday November 4: The Impact of Judicial Decisions III (Civil Rights)

Required Reading

Chapters 4 and 5 of Rosenberg

Thursday November 6: TBD

Required Reading

TBD

Tuesday November 11: No Class

Thursday November 13: A Closer Look at the Supreme Court and Civil Rights I

Required Reading

Introduction and Chapters 1 and 2 of Klarman

Tuesday November 18: A Closer Look at the Supreme Court and Civil Rights II

Required Reading

Chapters 3, 4, and 5 of Klarman

Thursday November 20: A Closer Look at the Supreme Court and Civil Rights III

Required Reading

Chapters 6, 7, and Conclusion of Klarman

Tuesday November 25: *Baker v. Carr* and Redistricting (Background)

Required Reading

Chapters 1, 2, 3, and 4 of Ansolabehere and Snyder

Thursday November 27: No Class (Thanksgiving)

Tuesday December 2: *Baker v. Carr* and Redistricting (Judicial Action)

Required Reading

Chapters 5, 6, 7, and 8 of Ansolabehere and Snyder

Thursday December 4: *Baker v. Carr* and Redistricting (Consequences)

Required Reading

Chapters 9, 10, 11, and 12 of Ansolabehere and Snyder