

## JUDICIAL POLITICS

POLS60037-01  
W 6:30-9:15 pm  
Fall 2017  
Jenkins and Nanovic Hall B052

Dr. Matthew Hall  
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Jenkins and Nanovic Hall 2047  
Office Hours: W 3:30-5:30

### A. Course Description

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The goal of this course is to introduce students to the social scientific study of law and courts in American politics. The course will focus on two questions: First, what factors—legal, ideological, strategic, institutional, or otherwise—influence the behavior of judicial actors? Second, what are the effects—social, political, or otherwise—of judicial behavior and institutions? Students will explore (1) seminal works that have defined the principal questions in the field, (2) prominent cutting-edge answers to these questions, (3) both traditional and alternative methodological approaches, and (4) avenues for future research. Topics will include judicial selection, agenda setting, decision making, independence, legitimacy, policymaking, hierarchy, compliance, implementation, and impact. Although the course will focus on the study of the U.S. Supreme Court, we will also consider the study of lower federal courts and state courts.

**Learning objectives:** After completing the course students should be able to:

- Demonstrate familiarity with the basic concepts in the judicial politics literature.
- Understand the social-scientific process and its special application to law and courts.
- Insightfully critique the theory, methods, and evidence of judicial politics research.

### B. Course Materials

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- Rosenberg, Gerald. 2008. *The Hollow Hope: Can Courts Bring About Social Change?* 2<sup>nd</sup> ed. Chicago: University of Chicago Press.
- Hall, Matthew E.K. 2011. *The Nature of Supreme Court Power*. Cambridge University Press.

### C. Student Responsibilities

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**Assessment and Grading:** This is a reading intensive course, meaning that students are expected to devote their time to reading and critically evaluating the course material rather than producing papers or taking tests. Students will be evaluated based on four criteria:

- Response papers (40%)
- In class summaries (40%)
- Class participation (20%)

Each student must write ten 400-600 word papers responding to a week's reading. Papers should be emailed to the instructor by noon on the day of class. These papers should NOT summarize the readings; instead they should analyze and respond to one of the following questions:

- What are the strengths and/or weaknesses of the readings? Why did they get published? (e.g., theory, data, methods, findings, and/or any other important factors)
- Compare and contrast two or more readings. Which is most persuasive and why?
- What is the next logical step in this research agenda? How would you pursue it?

Students are also required to summarize the main arguments in the readings in class. In each class, students will be randomly selected to provide a brief summary of the research question, thesis, method, and findings from each paper.

Finally, all students are expected to actively participate in class discussion every week. Absences may be excused with a note from the dean of students or health services. Class participation will be evaluated based on frequency and quality of in-class discussion.

**Attendance Policy:** Students are expected to attend all classes. Failure to attend class will negatively affect your participation grade unless the absence is excused. If you cannot attend class due to an important family or medical reason, please notify the instructor in advance.

**Academic Honesty Statement:** Class members are expected to understand the principles and procedures set forth in the University of Notre Dame Academic Code of Honor (<http://www.nd.edu/~hnr/code/>) and abide by its pledge: "As a member of the Notre Dame community, I will not participate in or tolerate academic dishonesty."

**Disability Services:** Any student who feels that he/she may need accommodations in order to meet the requirements of this course due to presence of a disability should contact the instructor to make appropriate arrangements.

## D. Weekly Schedule

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### Week 1: How to Study Courts

- Pritchett, C. Herman. 1948. "The Roosevelt Court: Votes and Values." *American Political Science Review* 42(1): 53-67.
- Epstein, Lee, and Tonja Jacobi. 2010. "The Strategic Analysis of Judicial Decisions." *Annual Review of Law and Social Science* 6:341-358.
- Friedman, Barry. 2006. "Taking Law Seriously." *Perspectives on Politics* 4(2): 261-276.

#### *Recommended:*

- Gillman, Howard. 1998. "The Court as an Idea, Not a Building (or a Game): Interpretive Institutionalism and the Analysis of Supreme Court Decision-making," in *Supreme Court Decision-Making: New Institutional Approaches*, Cornell Clayton and Howard Gillman (eds.), pp. 65-87.
- Clayton, Cornell W., and David A. May. 1999. "A Political Regimes Approach to the Analysis of Legal Decisions." *Polity* 32(2): 233-252.
- Whittington, Keith E. 2000. "Once More Unto the Breach: Post-Behavioralist Approaches to Judicial Politics." *Law & Social Inquiry* 25(2): 601-634.
- Kim, Pauline, Margo Schlanger, Christina L. Boyd, and Andrew D. Martin. 2009. "How Should We Study District Court Decision-Making?" *Journal of Law and Policy* 29: 83-112.

### Week 2: Social-Psychological Accounts

- Segal, Jeffrey A., and Albert D. Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." *American Political Science Review* 83(2): 557-565.
- "Symposium: The Supreme Court and the Attitudinal Model." 1994. *Law & Courts Newsletter*, 4(Spring): 3-12. <http://lawcourts.org/pubs/newsletter/spring94.pdf>.
- Braman, Eileen, and Thomas E. Nelson. 2007. "Mechanism of Motivated Reasoning? Analogical Perception in Discrimination Disputes." *American Journal of Political Science* 51(4): 940-956.
- Glynn, Adam, and 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.

*Recommended:*

- Braman, Eileen. 2006. "Reasoning on the Threshold: Testing the Separability of Preferences in Legal Decision Making." *Journal of Politics* 68(2): 308-321.
- Rowland, C. K., and Robert A. Carp. 1980. "A Longitudinal Study of Party Effects on Federal District Court Policy Propensities." *American Journal of Political Science* 24(2): 291-305.
- "Symposium on the Supreme Court Forecasting Project." 2004. *Perspectives on Politics* 2(4): 757-759.
- Lax, Jeffrey R. 2011. "The New Judicial Politics of Legal Doctrine." *Annual Review of Political Science* 14:131-157.

*Recommended: Measuring Judicial Ideology*

- Tate, C. Neal. 1981. "Personal Attribute Models of the Voting Behavior of U.S. Supreme Court Justices: Liberalism in Civil Liberties and Economics Decisions, 1946-1978." *American Political Science Review* 75: 355-367.
- Martin, Andrew, and Kevin Quinn. 1998. "Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the U.S. Supreme Court, 1953-1999." *Political Analysis* 10(1): 134-53.
- Brace, Paul, Laura Langer, and Melinda Gann Hall. 2000. "Measuring the Preferences of State Supreme Court Judges." *Journal of Politics* 62(2): 387-413.
- Giles, Micheal W., Virginia A Hettinger, and Todd Peppers. 2001. "Picking Federal Judges: A Note on Policy and Partisan Selection Agendas." *Political Research Quarterly* 54(3): 623-641.
- Bailey, Michael. 2007. "Comparable Preference Estimates across Time and Institutions for the Court, Congress, and the Presidency." *American Journal of Political Science* 51(3): 433-448.
- Epstein, Lee, Andrew D. Martin, Jeffrey A. Segal, and Chad Westerland. 2007. "The Judicial Common Space." *Journal of Law, Economics, and Organization* 23(2): 303-325.
- Lauderdale, Benjamin E., and Tom S. Clark. 2012. "The Supreme Court's Many Median Justices." *American Political Science Review* 106(4): 847-866.

*Recommended: Race, Gender, and Other Ascriptive Characteristics*

- Songer, Donald R., Sue Davis, and Susan Haire. 1994. "A Reappraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals." *Journal of Politics* 56:

425-439.

- Farhang, Sean, and Gregory Wawro. 2004. "Institutional Dynamics on the U.S. Court of Appeals: Minority Representation Under Panel Decision Making." *Journal of Law, Economics, and Organization* 20: 299-330.
- Boyd, Christina L., Lee Epstein, and Andrew D. Martin. 2010. "Untangling the Causal Effects of Sex on Judging." *American Journal of Political Science* 54: 389-411.

### **Week 3: Legalism**

- Edwards, Harry T., and Michael A. Livermore. 2009. "Pitfalls of Empirical Studies that Attempt to Understand the Factors Affecting Appellate Decision Making." *Duke Law Journal* 58(8): 1895-1989.
- Bailey, Michael A., and Forrest Maltzman. 2008. "Does Legal Doctrine Matter? Unpacking Law and Policy Preferences on the U.S. Supreme Court." *American Political Science Review* 102: 369-384.
- Bartels, Brandon L. 2009. "The Constraining Capacity of Legal Doctrine on the U.S. Supreme Court." *American Political Science Review* 103(3): 474-495.

### *Recommended:*

- Richards, Mark J., and Herbert J. Kritzer. 2002. "Jurisprudential Regimes in Supreme Court Decision Making." *American Political Science Review* 96(2): 305-320.
- Segal, Jeffrey. 1984. "Predicting Supreme Court Decisions Probabilistically: The Search and Seizure Cases." *American Political Science Review* 78: 891-900.
- George, Tracey E., and Lee Epstein. 1992. "On the Nature of Supreme Court Decision Making." *American Political Science Review* 86(2): 323-337.
- Posner, Richard. 1995. "What Do Judges Maximize?" in *Overcoming Law*, Richard Posner, ed., p109-144.
- Segal, Jeffrey A., and Harold J. Spaeth. 1996. "The Influence of Stare Decisis on the Votes of United States Supreme Court Justices." *American Journal of Political Science* 40(4): 971-987.
- Cross, Frank. 1997. "Political Science and the New Legal Realism: A Case of Unfortunate Interdisciplinary Ignorance." *Northwestern University Law Review* 92(1): 251-326.
- Spriggs, James F., II., and Thomas G. Hansford. 2001. "Explaining the Overruling of U.S. Supreme Court Precedent." *Journal of Politics* 63: 1091-1011.
- Bueno de Mesquita, Ethan, and Matthew Stephenson. 2002. "Informative Precedent and Intra-judicial Communication." *American Political Science Review* 96(4): 755-766.
- Hansford, Thomas G., and James F. Spriggs. 2008. *The Politics of Precedent on the U.S. Supreme Court*. Princeton University Press
- Friedman, Barry. 2005-2006. "The Politics of Judicial Review." *Texas Law Review* 84: 257-337.

### *Recommended: Jurisprudential Regimes*

- Lax, Jeffrey R., and Kelly T. Rader. 2010. "Legal Constraints on Supreme Court Decision Making: Do Jurisprudential Regimes Exist?" *Journal of Politics* 72(2): 273-284.
- Kritzer, Herbert J., and Mark J. Richards. 2010. "Taking and Testing Jurisprudential

- Regimes Seriously: A Response to Lax and Rader.” *Journal of Politics* 72(2): 285-288.
- Lax, Jeffrey R., and Kelly T. Rader. 2010. “The Three Prongs of a Jurisprudential Regimes Test: A Response to Kritzer and Richards.” *Journal of Politics* 72(2): 289-291.

*Recommended: Modeling Legal Rules*

- Kornhauser, Lewis. 1992. “Modeling Collegial Courts II: Legal Doctrine.” *Journal of Law, Economics & Organization* 8(3): 441-470.
- Wahlbeck, Paul J. 1997. “The Life of the Law: Judicial Politics and Legal Change.” *Journal of Politics* 59(3): 778-802.
- Lax, Jeffrey. 2007. “Constructing Legal Rules on Appellate Courts.” *American Political Science Review* 101(3): 591-604.
- Kastellec, Jonathan. 2010. “The Statistical Analysis of Judicial Decisions and Legal Rules with Classification Trees.” *Journal of Empirical Legal Studies* 7(2): 202-30.

**Week 4: Strategic and Psychoeconomic Accounts**

- Epstein, Lee, and Jack Knight. 2013. “Reconsidering Judicial Preferences.” *Annual Review of Political Science* 16:11-31.
- Epstein, Lee, and William M. Landes, and Richard A. Posner. 2011. “Why (and When) Judges Dissent: A Theoretical and Empirical Analysis.” *Journal of Legal Analysis* 3(1): 101-137.
- Hall, Matthew E.K. 2017. *What Justices Want: Goals and Personality on the U.S. Supreme Court*. Manuscript in preparation. Ch. 1-3, 8.

*Recommended:*

- Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. CQ Press.
- Gibson, James L. 1978. “Judges’ Role Orientations, Attitudes, and Decisions: An Interactive Model.” *American Political Science Review* 72: 911-924.
- Baum, Lawrence. 2008. *Judges and Their Audiences: A Perspective on Judicial Behavior*. Princeton, NJ: Princeton University Press.

**Week 5: Agenda Setting**

- Perry, H.W., Jr. 1991. *Deciding to Decide: Agenda Setting in the United States Supreme Court*. Harvard University Press. Ch. 7-8.
- Cameron, Charles, M., Jeffrey A. Segal, and Donald Songer. 2000. “Strategic Auditing in a Political Hierarchy: An Informational Model of the Supreme Court’s Certiorari Decisions.” *American Political Science Review* 94(1): 101-116.
- Hall, Matthew E.K. 2017. *What Justices Want: Goals and Personality on the U.S. Supreme Court*. Manuscript in preparation. Ch. 4.

*Recommended: Information and Case Selection*

- Caldeira, Gregory, and John Wright. 1988. “Organized Interests and Agenda Setting in the U.S. Supreme Court.” *American Political Science Review* 82(4): 1109-1128.
- Boucher, Robert L., and Jeffrey A. Segal. 1995. “Supreme Court Justices as Strategic Decision Makers: Aggressive Grants and Defensive Denials on the Vinson Court.” *Journal of Politics* 57(3): 824-837.

- Caldeira, Gregory A., John R. Wright, and Christopher Zorn. 1999. "Strategic Voting and Gate-keeping in the Supreme Court." *Journal of Law, Economics & Organization* 15(3): 549-72.
- Hansford, Thomas G. 2004. "Information Provision, Organizational Constraints, and the Decision to Submit an Amicus Curiae Brief in a U.S. Supreme Court Case." *Political Research Quarterly* 57: 219-230.
- Collins, Paul M. 2004. "Friends of the Court: Examining the Influence of Amicus Curiae Participation in U.S. Supreme Court Litigation." *Law & Society Review* 38: 807-832.
- Corley, Pamela. 2008. "The Supreme Court and Opinion Content: The Influence of Parties' Briefs." *Political Research Quarterly* 61(3): 468-478.
- Harvey, Anna, and Barry Friedman. 2009. "Ducking Trouble: Congressional Induced Selection Bias in the Supreme Court's Agenda." *Journal of Politics* 71(2): 574-592.
- Clark, Tom S., and Jonathan P. Kastellec. 2012. "The Supreme Court and Percolation in the Lower Courts: An Optimal Stopping Model." *Journal of Politics* 75(1): 150-168.

*Recommended: Strategic Auditing*

- Baird, Vanessa. 2004. "The Effect of Politically Salient Decisions on the U.S. Supreme Court's Agenda." *Journal of Politics* 66(3): 755-772.
- Johnson, Timothy R., James F. Spriggs, II, and Paul J. Wahlbeck. 2005. "Passing and Strategic Voting on the U.S. Supreme Court." *Law & Society Review* 39: 349-377.
- Black, Ryan C., and Ryan J. Owens. 2009. "Agenda Setting in the Supreme Court: The Collision of Policy and Jurisprudence." *Journal of Politics* 71: 1062-1075.
- Owens, Ryan J. 2010. "The Separation of Powers and Supreme Court Agenda Setting." *American Journal of Political Science* 54(2): 412-427.
- Carrubba, Clifford J., and Tom S. Clark. 2012. "Rule Creation in a Political Hierarchy." *American Political Science Review* 106(3): 622-643.

**Week 6: Bargaining**

- Bonneau, Chris, Thomas Hammond, Forrest Maltzman, and Paul Wahlbeck. 2007. "Agenda Control, the Median Justice, and the Majority Opinion on the U.S. Supreme Court." *American Journal of Political Science* 51(4): 890-905.
- Carrubba, Cliff, Barry Friedman, Andrew D. Martin, and Georg Vanberg. 2012. "Who Controls the Content of Supreme Court Opinions?" *American Journal of Political Science* 56(2): 400-412.
- Khun, James, Matthew E.K. Hall, and Kristen Macher. 2017. "Holding versus Dicta: Divided Control of Opinion Content on the U.S. Supreme Court." *Political Research Quarterly* 70(2): 257-268.
- Hall, Matthew E.K. 2017. *What Justices Want: Goals and Personality on the U.S. Supreme Court*. Manuscript in preparation. Ch. 5-6.

*Recommended:*

- Clark, Tom S., and Benjamin Lauderdale. 2010. "Locating Supreme Court Opinions in 'Doctrine Space.'" *American Journal of Political Science* 54(4): 871-90.
- Pritchett, C. Herman. 1941. "Divisions of Opinion Among Justices of the U.S. Supreme Court, 1939-1941." *American Political Science Review* 35: 890-898.

- Walker, Thomas G., Lee Epstein, and William J. Dixon. 1988. "On the Mysterious Demise of Consensual Norms in the United States Supreme Court." *Journal of Politics* 50(2): 361-389.
- Maltzman, Forrest, and Paul J. Wahlbeck. 1996. "May It Please the Chief? Opinion Assignments in the Rehnquist Court." *American Journal of Political Science* 40: 421-443.
- Hettinger, Virginia A., Stefanie Lindquist, and Wendy L. Martinek. 2004. "Comparing Attitudinal and Strategic Accounts of Dissenting Behavior on the U.S. Courts of Appeals." *American Journal of Political Science* 48(1): 123-137.
- Maltzman, Forrest, James F. Spriggs II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court*. Cambridge University Press. Chapters 1-3
- Lax, Jeffrey R., and Charles M. Cameron. 2007. "Bargaining and Opinion Assignment on the U.S. Supreme Court." *Journal of Law, Economics, and Organization* 23(2): 276-302.
- Giles, Micheal W., Bethany Blackstone and Richard L. Vining. 2008. "The Etiology of the Occurrence of En Banc Review in the U.S. Court of Appeals." *Journal of Politics* 70(2): 293-306.
- McGuire, Kevin T., Georg Vanberg, Charles E. Smith Jr., and Gregory A. Caldeira. 2009. "Measuring Policy Content on the U.S. Supreme Court." *Journal of Politics* 71(4): 1305-1321.
- Lee Epstein, William M. Landes, and Richard A. Posner. 2011. "Why (And When) Judges Dissent: A Theoretical and Empirical Analysis." *Journal of Legal Analysis* 3: 101-137.
- Lax, Jeffrey, and Kelly Rader. "Bargaining Power in the Supreme Court." Columbia University working paper.

### **Week 7: Judicial Hierarchy**

- Songer, Donald, Jeffrey Segal, and Charles Cameron. 1994. "The Hierarchy of Justice: Testing a Principal-Agent Model of Supreme Court-Circuit Court Interactions." *American Journal of Political Science* 38: 673-696.
- Klein, David and Robert Hume. 2003. "Fear of Reversal as an Explanation of Lower Court Compliance." *Law and Society Review* 37(3): 579-606.
- Westerland, Chad, Jeffrey A. Segal, Lee Epstein, Charles M. Cameron, and Scott Comarato. 2010. "Strategic Defiance and Compliance in the U.S. Courts of Appeals." *American Journal of Political Science* 54(4): 891-905.

### *Recommended:*

- Kornhauser, Lewis. 1995. "Adjudication by a Resource-Constrained Team: Hierarchy and Precedent in a Judicial System." *Southern California Law Review* 68:1605-1629.
- McNollgast. 1995. "Politics and the Court: A Positive Theory of Judicial Doctrine and the Rule of Law." *Southern California Law Review* 68:1631-1683.
- Cross, Frank, and Emerson Tiller. 1998. "Judicial Partisanship and Obedience to Legal Doctrine: Whistleblowing on the Federal Courts of Appeal." *Yale Law Journal* 107:2155-2176.
- Benesh, Sara C., and Wendy L. Martinek. 2002. "State Supreme Court Decision Making in Confession Cases." *Justice System Journal* 23: 109-134.
- Benesh, Sara C., and Malia Reddick. 2002. "Overruled: An Event History Analysis of

Lower Court Reaction to Supreme Court Alteration of Precedent.” *Journal of Politics* 64(2): 534-550.

- Cameron, Charles M., and Lewis A. Kornhauser. 2006. “Appeals Mechanisms, Litigant Selection, and the Structure of Judicial Hierarchies.” in James R. Rogers, Roy B. Flemming and Jon R. Bond (eds.), *Institutional Games and the U.S. Supreme Court*. Charlottesville: University of Virginia Press.
- Randazzo, Kirk A. 2008. Strategic Anticipation and the Hierarchy of Justice in U.S. District Courts.” *American Politics Research* 36(5): 669-693.
- Hume, Robert J. 2009. “The Impact of Judicial Opinion Language on the Transmission of Federal Circuit Court Precedents.” *Law & Society Review* 43(1): 127-150.
- Clark, Tom S., and Clifford J. Carrubba. 2012. “A Theory of Opinion Writing in a Political Hierarchy” *Journal of Politics* 74(2): 584-603.

### **Week 8: Separation of Powers Models**

- Eskridge, William N., Jr. 1991. “Reneging on History? Playing the Court/ Congress/ President Civil Rights Game.” *California Law Review* 79(3): 613-684.
- Gillman, Howard. 2002. “How Political Parties Can Use the Courts to Advance Their Agendas: Federal Courts in the United States, 1875-1891. *American Political Science Review* 96(3): 511-524.
- Segal, Jeffrey A., Chad Westerland, and Stephanie A. Lindquist. 2011. “Congress, the Supreme Court, and Judicial Review: Testing a Constitutional Separation of Powers Model.” *American Journal of Political Science* 55(1): 89-104.

### *Recommended:*

- Harvey, Anna, and Barry Friedman. 2006. “Pulling Punches: Congressional Constraints on the Supreme Court’s Constitutional Rulings, 1987-2000.” *Legislative Studies Quarterly* 31(4): 533-561.
- Harvey, Anna. 2010. “The Will of Congress.” *Michigan State Law Review* 2010:729-739.
- Murphy, Walter F. 1964. *Elements of Judicial Strategy*. Chicago: University of Chicago Press, pp.123-175.
- Casper, Jonathan D. 1976. “The Supreme Court and National Policy Making.” *American Political Science Review* 70(1): 50-63.
- Ferejohn, John, and Charles Shipan. 1990. “Congressional Influence on Bureaucracy.” *Journal of Law, Economics, & Organization* 6(Special Issue): 1-20.
- Gely, Rafael, and Pablo T. Spiller. 1990. “A Rational Choice Theory of Supreme Court Statutory Decisions with Applications to the State Farm and Grove City Cases.” *Journal of Law, Economics, & Organization* 6(2): 263-300.
- Spiller, Pablo T., and Rafael Gely. 1992. “Congressional Control or Judicial Independence: The Determinants of U.S. Supreme Court Labor-Relations Decisions 1949-1988.” *Rand Journal of Economics* 23(4): 463-492.
- Spiller, Pablo T., and Matthew L. Spitzer. 1992. “Judicial Choice of Legal Doctrines.” *Journal of Law, Economics, and Organization* 8: 8-46.
- Knight, Jack, and Lee Epstein. 1996. “On the Struggle for Judicial Supremacy.” *Law & Society Review* 30(1): 87-130.
- Hausseger, Lori, and Lawrence Baum. 1999. “Inviting Congressional Action: A Study of



Supreme Court Motivations in Statutory Interpretation.” *American Journal of Political Science* 43(1): 162-185.

- Segal, Jeffrey A., and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press, ch. 3 & 8.
- Bergara, Mario, Barak Richman and Pablo Spiller. 2003. “Modeling Supreme Court Strategic Decision making: The Congressional Constraint.” *Legislative Studies Quarterly* 28:247-80.
- Harvey, Anna, and Barry Friedman. 2003. “Electing the Supreme Court” *Indiana Law Journal* 78:123-151.
- Howard, Robert, and Jeffrey A. Segal. 2004. “A Preference for Deference?: The Supreme Court and Judicial Review.” *Political Research Quarterly* 41(4): 1224-1250.

*Recommended: Court Curbing*

- Rosenberg, Gerald. 1992. “Judicial Independence and the Reality of Political Power.” *Review of Politics* 54(3): 369-398.
- Ramseyer, J. Mark. 1994. “The Puzzling (In)dependence of Courts: A Comparative Approach.” *Journal of Legal Studies* 23
- Segal, Jeffrey A. 1997. “Separation-of-Powers Games in the Positive Theory of Congress and Courts.” *American Political Science Review* 91: 28-44. [also see the correction to this: Segal, Jeffrey A. 1998. “Correction to Separation-Powers Games in the Positive Theory of Congress and Courts.” *American Political Science Review* 92: 923-926.]
- Vanberg, Georg. 2001. “Legislative-Judicial Relations: A Game-Theoretic Approach to Constitutional Review.” *American Journal of Political Science* 45(3): 346-361.
- Stephenson, Matthew C. 2004. “Court of Public Opinion: Government Accountability and Judicial Independence.” *Journal of Law, Economics & Organization* 20(2): 379-99.
- Randazzo, Kirk A., Richard W. Waterman, and Jeffrey A. Fine. 2006. “Checking the Federal Courts: The Impact of Congressional Statutes on Judicial Behavior.” *Journal of Politics* 68(4): 1006-1017.
- Clark, Tom S. 2009. “The Separation of Powers, Court Curbing, and Judicial Legitimacy.” *American Journal of Political Science* 971-989.

**Week 9. Public Opinion**

- Casillas, Christopher, Peter K. Enns, and Patrick C. Wohlfarth. 2011. “How Public Opinion Constrains the U.S. Supreme Court.” *American Journal of Political Science* 55(1): 74-88.
- Hall, Matthew E.K. 2014. “The Semi-Constrained Court: Public Opinion, the Separation of Powers, and the U.S. Supreme Court’s Fear of Nonimplementation.” *American Journal of Political Science* 58(2): 352-366.
- Huber, Greg, and Sanford C. Gordon. 2004. “Accountability and Coercion: Is Justice Blind When It Runs for Office?” *American Journal of Political Science* 48(2): 247-263.

*Recommended:*

- McGuire, Kevin T., and James A. Stimson. 2004. “The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Preferences.” *Journal of Politics* 66(4): 1018-1035.

- Johnson, Timothy R., and Andrew D. Martin. 1998. "The Public's Conditional Response to Supreme Court Decisions." *American Political Science Review* 92(2): 299-310.
- Caldeira, Gregory A. 1987. "Public Opinion and the U.S. Supreme Court: FDR's Court-Packing Plan." *American Political Science Review* 81(4): 1139-1153.
- Franklin, Charles H., and Liane C. Kosaki. 1989. "The Republican School Master: The Supreme Court, Public Opinion, and Abortion." *American Political Science Review* 83(3): 751-771.
- Mishler, William, and Reginald Sheehan. 1993. "The Supreme Court as a Countermajoritarian Institution." *American Political Science Review* 87(2): 87-101.
- Norpoth, Helmut, and Jeffrey A. Segal. 1994. "Popular Influence on Supreme Court Decisions." *American Political Science Review* 88(3): 711-724.
- Brace, Paul, and Melinda Gann Hall. 1995. "Studying Courts Comparatively: The View from the American States." *Political Research Quarterly* 48(1): 5-29.
- Flemming, Roy B., and B. Dan Wood. 1997. "The Public and the Supreme Court: Individual Justice Responsiveness to American Policy Moods." *American Journal of Political Science* 41 (2): 468-498.
- Hoekstra, Valeria J. 2000. "The Supreme Court and Local Public Opinion." *American Political Science Review* 94: 89-100.
- Giles, Michael W., Bethany Blackstone, and Richard L. Vining, Jr. 2008. "The Supreme Court in American Democracy: Unraveling the Linkages between Public Opinion and Judicial Decision Making." *Journal of Politics*. 70 (April): 293-306.
- Collins, Paul M., Jr., and Daniel A. Norton, Kenneth L. Manning, and Robert A. Carp. 2008. "International Conflicts and Decision Making on the Federal District Courts." *Justice System Journal* 29(2): 121-144.
- Gibson, James L., and Gregory A. Caldeira. 2009. "Knowing the Supreme Court? A Reconsideration of Public Ignorance of the High Court." *Journal of Politics* 71(#2): 429-441.
- Canes-Wrone, Brandice, Tom S. Clark, and Jee-Kwang Park. 2012. "Judicial Independence and Retention Elections." *Journal of Law, Economics, and Organization* 28(2): 211-234.

*Recommended: Judicial Legitimacy*

- Caldeira, Gregory A. 1986. "Neither the Purse Nor the Sword: Dynamics of Public Confidence in the Supreme Court." *American Political Science Review* 80: 1209-1226.
- Caldeira, Gregory A., and James L. Gibson. 1992. "The Etiology of Public Support for the Supreme Court." *American Journal of Political Science* 36:635-64.
- Gibson, James L., Gregory A. Caldeira, and Vanessa Baird. 1998. "On the Legitimacy of National High Courts." *American Political Science Review* 92(2): 343-358.
- Gibson, James L., Gregory A. Caldeira, and Lester Kenyatta Spence. 2003. "The Supreme Court and the U.S. Presidential Election of 2000: Wounds, Self-Inflicted or Otherwise?" *British Journal of Political Science* 33(4): 535-556.
- Gibson, James L., Gregory A. Caldeira, and Lester Kenyatta Spence. 2003. "Measuring Attitudes toward the United States Supreme Court." *American Journal of Political Science* 47: 354-367.

- Stanton, Jeffrey K. 2006. "Constitutional Review and the Selective Promotion of Case Results." *American Journal of Political Science* 50(1): 98-112.
- Gibson, James L. 2008. "Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and 'New-Style' Judicial Campaigns." *American Political Science Review* 102(1): 59-75.
- Scherer, Nancy, and Brett Curry. 2010. "Does Descriptive Race Representation Enhance Institutional Legitimacy? The Case of the U.S. Courts." *Journal of Politics* 72(1): 90-104.
- Gibson, James L., and Gregory A. Caldeira. 2012. "Campaign Support, Conflicts of Interest, and Judicial Impartiality: Can Recusals Rescue the Legitimacy of Courts?" *Journal of Politics* 74(1): 18-34.

### **Week 10: Regime Politics**

- Graber, Mark A. 1993. "The Nonmajoritarian Difficulty: Legislative Deference to the Judiciary." *Studies in American Political Development* 7(2): 35-73.
- Whittington, Keith E. 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.
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