

POL492/2392H1S
Topics in Comparative Politics IV
The (Un)Rule of Law in Comparative Perspective

Time: 10:00-12:00am, Friday

Location: Claude Bissell Building, room 113

Instructor: Professor Egor Lazarev

Office Hours: 10:00am-12:30pm, Tuesday, Sidney Smith 3108

Sign Up: <https://calendly.com/egorlazarev/office-hours-winter-2019>

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Course Description:

This advanced seminar is devoted to the exploration of patterns of social ordering beyond the advanced democracies. We will start with the analysis of the concepts and the lines of theorizing of the rule of law, the state, legitimacy, legal mobilization and legal consciousness. We will discuss what is law, why people obey the law, and how do societies govern themselves in the absence of strong state legal institutions. We then proceed with discussion of how to measure law and order. We will discuss the relationship between law and colonialism, co-existence of state law with customary and religious legal orders, the functioning of law under the authoritarian governments, and the patterns of social ordering during armed conflict and its aftermath.

PREREQUISITE: 2.0 POL credits in comparative politics. See the Department's website <http://politics.utoronto.ca/undergraduate/courses/fallwinter-timetable> for POL courses by area group.

Course objectives:

- 1) To familiarize with the most important debates and issues in law and society
- 2) To learn theories and empirical tools to study law
- 3) To learn how to conduct social science research; formulate research questions and hypotheses, and how to test them;
- 4) To learn how to write an academic paper
- 5) To learn how to present your ideas effectively;

Organization of the course:

Announcements, lecture slides, readings, assignments, and grades will be posted on the Quercus portal.

Requirements:

- Active informed participation in the discussion (20%)
- Leading the class discussion of one week's material (10%)
- Writing a research proposal; 750-1000 words; due February 25, 5pm (15%)
- Peer-review of another seminar participant's research proposal; due March 4; (5%)
- Final project presentation in class (10%)
- Final paper; 4,000-6,000 words; due April 12 (40%)

First, active, informed participation should be understood literally. You should read the required texts and be ready to talk about them in class, answer instructor's questions and raise your own questions related to the topics of discussion. If you are uncomfortable speaking in class due to disability or psychological reasons, please let me know in advance and we will devise an alternative form of participation based on written responses to course readings.

Second, during weeks 5-11, two students working in pairs will lead discussion of the assigned readings. Class will begin with the discussion leaders' critical overview of each work's key concepts, claims, flaws, etc. The leaders will look beyond the readings on the syllabus, and prepare questions for the group discussion. Discussion leaders should use powerpoint presentations. This lead-in to each week's class should take about 20 minutes. At that point, the floor will be open to the entire class. Seminar participants will choose "their session" when they would like to lead the discussion during the first 4 weeks of the seminar.

Third, you will be asked to write a one-page (750 words) research proposal. You are absolutely free to choose your research topic as long as it is related to law and development. The topic might be contemporary or historical, it can be about any country other than advanced democracies. You will have to formulate a research question, explain why it is important to study it, propose a hypothesis or an argument, discuss a theory you want to engage with, and speculate on the sources of evidence to test your ideas. You are encouraged to come to the office hours to discuss your project ideas.

Fourth, after submitting your research project, you will receive a research project from another student in the class (this will be randomly assigned by the instructor) and you will be asked to provide brief comments and suggestions to your fellow seminar participant.

Finally, you will be required to write a final paper on the topic of your interest (approximately 10-15 pages). For example, you can write on the following topics: How does the British colonialism affect executive-judiciary relations in contrast to the French colonialism? Why does country A formally recognize customary law, while country B does not? Why do some authoritarian states promote the rule of law while others do not? How do criminal groups establish their "law and order"? Why do some transitional justice initiatives are more efficient in gaining public support than others? When legal transplants from the West face actively resisted by the local population and when are they accepted? Why police reform was successful in country A, but failed in country B? You will come up with a great question of your own! The paper can be based on the critical analysis of the secondary sources and/or some original research.

You will be also asked to give a short – 5-10 min presentation of your project during the last meeting of the seminar.

All writing assignments should be 12 Times New Roman font double-spaced; Word file or pdf; Late submissions will be penalized by one point of grade per day.

The Schedule:

January 11, Course Introduction

January 18, The Concepts and Debates

- Carothers, Thomas. "The rule of law revival." *Foreign Affairs* 77 (1998): 95.
- Cheesman, Nick. 2014. "Law and Order as Asymmetrical Opposite to the Rule of Law." *Hague Journal on the Rule of Law* 6: 96-114.
- Tamanaha, Brian Z. 2004. *On the rule of law: history, politics, theory*. Cambridge: Cambridge University Press. Introduction, Chapters 7 and 8

January 25, Theories

- Black, Donald. 1976. *The behavior of law*. Emerald Group Publishing. Pages 1-10.
- Bourdieu, Pierre. 1987. "The Force of Law: Toward a Sociology of the Juridical Field." *The Hastings Law Journal* 38: 805-853.
- Tyler, Tom R. "Procedural justice, legitimacy, and the effective rule of law." *Crime and justice* 30 (2003): 283-357.
- Rose, Nikolas, Pat O'Malley, and Mariana Valverde. "Governmentality." *Annu. Rev. Law Soc. Sci.* 2 (2006): 83-104

February 1, Empirical approaches

- Hirschl, Ran. "The question of case selection in comparative constitutional law." *The American Journal of Comparative Law* 53.1 (2005): 125-156.
- Ledeneva, Alena. "Blat and guanxi: Informal practices in Russia and China." *Comparative studies in society and history* 50.1 (2008): 118-144.
- Davis, Kevin, Benedict Kingsbury, and Sally Engle Merry. 2012. "Indicators as a Technology of Global Governance." *Law and Society Review*. January 2012.
- Versteeg, Mila, and Tom Ginsburg. "Measuring the rule of law: a comparison of indicators." *Law & Social Inquiry* 42.1 (2017): 100-137.

February 8, Law without courts?

- Ellickson, Robert C. 1991. *Order without law: How neighbors settle disputes*. Harvard University Press. Introduction and Part I.
- Ostrom, Elinor. 1990. *Governing the commons*. Cambridge university press. Chapter 1.
- Hadfield, Gillian K., and Barry R. Weingast. 2014. "Microfoundations of the Rule of Law." *Annual Review of Political Science* 17: 21-42

February 15, Varieties of social orders

- Murtazashvili, Jennifer Brick. 2016. *Informal order and the state in Afghanistan*. Cambridge University Press. Introduction, Chapter 4.
- Bernstein, Lisa. 1992. "Opting out of the legal system: Extralegal contractual relations in the diamond industry." *The Journal of Legal Studies* 21.1: 115-157.
- Skarbek, David. "Covenants without the sword? Comparing prison self-governance globally." *American Political Science Review* 110.4 (2016): 845-862.

February 22 – Break

March 1, Colonialism, Law, and Custom

- Mamdani, Mahmood. 1996. *Citizen and subject: Contemporary Africa and the legacy of late colonialism*. Princeton University Press. Pages 3-138.
- Merry, Sally Engle. *Colonizing Hawai'i: The cultural power of law*. Princeton University Press, 2000. Introduction.
- Comaroff, Jean, and John L. Comaroff, eds. *Law and Disorder in the Postcolony*. University of Chicago Press, 2008. Introduction.

March 8, Religion, gender, and law

- Sezgin, Yuksel. 2013. *Human Rights under State-Enforced Religious Family Laws in Israel, Egypt and India*. Cambridge University Press. Introduction, Chapters 2 and 3.
- Osanloo, Arzoo. 2009. *The Politics of Women's Rights in Iran*. Introduction.
- Moustafa, Tamir. "The Judicialization of Religion." *Law & Society Review* 52.3 (2018): 685-708.

March 15, Authoritarianism and law

- Massoud, Mark Fathi. 2013. *Law's Fragile State: Colonial, Authoritarian, and Humanitarian Legacies in Sudan*. Cambridge University Press. Chapter 1, "Lawfare and Warfare in Sudan;"
- Schepple Kim "Authoritarian Legalism." *University of Chicago Law Review*. 85.
- Shen-Bayh, Fiona. "Strategies of Repression: Judicial and Extrajudicial Methods of Autocratic Survival." *World Politics* (2018): 1-37.

March 22, Conflict and law

- Arjona, Ana. 2016. *Rebelocracy*. Cambridge University Press. Introductions, Chapters 2 and 3.
- Lake, Milli. 2017. "Building the Rule of War: Post-conflict Institutions and the Micro-Dynamics of Conflict in Eastern DR Congo." *International Organization* pp. 1–35.
- Giustozzi Antonia and Adam Baczeko 2014. "The Politics of the Taliban's Shadow Judiciary, 2003–2013, Central Asian Affairs.

March 29, International law, NGOs, and Legal Transplants

- Berkowitz, Daniel, Katharina Pistor, and Jean-Francois Richard. "The transplant effect." *Am. J. Comp. L.* 51 (2003): 163.
- Lake, Milli May. *Strong NGOs and Weak States: Pursuing Gender Justice in the Democratic Republic of Congo and South Africa*. Cambridge University Press, 2018. Introduction.
- Massoud, Mark Fathi. "Work Rules: How International NGOs Build Law in War-Torn Societies." *Law & Society Review* 49.2 (2015): 333-364.

April 5, Final project presentations

Expectations:

Evaluation in the course will be decided according to the following logic. 'A' Grades (A-, A, and A+) will be reserved for truly outstanding work. The grade of B+ indicates that the assignment has been completed satisfactorily with substantial merit. Grades of C or lower signify only adequate performance, with additional help recommended to fully grasp the material. Students will be expected to spend a minimum of 6-8 hours of independent learning in addition to the 2 hours of discussion in the classroom.

Turnitin: Normally, students will be required to submit their course essays to Turnitin.com for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site.

Academic integrity: Academic integrity is an important priority here at the University of Toronto. Our academic community honors the values of honesty, trust, respect, fairness and responsibility in order to protect you and your degree. Read Section B of the University of Toronto's Code of Behavior on Academic Matters, as all students are expected to know and to respect this Code: <http://www.artsci.utoronto.ca/osai/The-rules>

Appeals: Appeals must be accompanied by a half-page explanation of the merit for appeal (that you thought the assignment would get a better grade is not a sufficient reason for appeal). Appeals are to be submitted by e-mail to your teaching assistant for consideration within 7 days after the tests/papers are returned. Your grade can go either way, up or down by re-grading.

E-mail: Substantive questions on course subject matters should not be addressed via email as all such questions are best considered during the lectures and office hours. Email correspondence should only be used for organizational issues.

Course accessibility: Students with diverse learning styles and needs are always welcome in this course. In particular, if you have a disability or health consideration, which may require accommodation, please feel free to approach me in person and/or the Accessibility Service <https://www.studentlife.utoronto.ca/as/contact-us>

Illness and Extensions: In the case that you submit an assignment late because of illness, you need to provide the verification of student illness or injury form. The form should be submitted within one week of the deadline – or, in the case of serious illness prior to the deadline, must be submitted before the due date. <http://www.illnessverification.utoronto.ca/index.php>