Representation, Apportionment, and Democratic Participation
Seminar (GOVT 401)
Spring 2015

Professor Nick Goedert
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Office Hours: Wednesday 1:00-4:00
Meeting Times: 1:15-2:30 Tues/Thurs
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Description

This is a course about the electoral institutions of democratic society. We will explore the philosophical, empirical, and legal underpinnings of the “rules of the game” in democracies around the world, with a special focus on American election law. Topics will include:

- The varying concepts and dimensions along which a person or group may seek to be politically represented;
- How these concepts are implemented in different countries;
- How these concepts manifest in issues of contemporary election law, including apportionment, gerrymandering, and voting rights;
- Special considerations necessary for the representation of “discrete and insular” minorities.

In second half of the course, students will take on the roles of lawyers and judges arguing for or deciding hypothetical cases in American election law, using both the legal and theoretical background from the course to craft their arguments and decisions.

Intended Student Learning Outcomes

At the conclusion of the course, it is expected that students will be able to:

- Explain different norms of representation, and how varying election rules might satisfy these norms.
- Explain different voting and apportionment systems used in various nations and states.
- Evaluate how the electoral institutions of a specific country may translate into different party systems or qualities of representation.
- Understand contemporary issues in American election law.
- Craft a short legal brief advocating for a particular interpretation of election law.
- Craft judicial decisions incorporating political theory and recent legal precedent.
- Participate in moot court-style oral arguments as both an advocate and a judge.

Readings

The course has two required books:


The books should be available from the campus bookstore and online. Additional articles and book excerpts will be posted on Moodle as noted in the syllabus. Readings for the second half of the course will largely be composed of Supreme Court opinions and hypothetical “moot court” cases I will post on Moodle.
Requirements

The course grade consists of the following:

1. Midterm Exam (in class March 12): 20%
2. Mid-semester Comparative Elections paper: 15%
3. One moot court brief: 15%
4. Three moot court opinions: 30%
5. Class Participation: 20%

Midterm Exam: There will be only one examination in the course, an in-class midterm on March 12th. The exam will include short answer and one or more longer essay questions. The exam is open-notes, although you are not permitted to access electronic devices or the internet during the exam. There is no final exam for this course.

Comparative Elections Paper: The first paper for the course, due around Spring Break, requires you to discuss the electoral institutions of a foreign country of your choice; I will provide more details of the paper as we get into the comparative institutions unit. But generally, you should detail how representatives are chosen in this nation, how their government and party systems are structured, and how these structures interact with demographic and social divisions in the country. You might also want to discuss how the politics of the nation would differ if they adopted the American system of government, or vice versa. I expect this paper to be 6-8 pages.

Moot Courts: The remaining papers for the course will come from a series of “moot court” exercises in the second half of the course. These cases will each present a hypothetical issue of election law that you will be asked to discuss and deliberate on. Depending on enrollment, there will either be three or four moot court cases. Each case will have a designated class date for oral arguments and deliberation.

(a) In one of these cases, you will be asked to play the role of a lawyer for one of the parties in the case. While a lawyer, you will be required to:

- Write a brief to the Court, arguing your side of the case, due on the class day prior to oral arguments (e.g. the previous Thursday for Tuesday arguments), approximately 6-8 pages. The brief will be distributed to the Court.
- Present oral arguments to the assembled Court on the designated date.

(b) For the remaining cases, you will play the role of a justice on the Supreme Court. Justices are required to fulfill the following tasks:

- Sit en banc with your fellow justices to hear oral arguments. You will be expected to have read the brief and be prepared to ask questions.
- Write the opinion of the Court following the process on the Supreme Court (with slight modifications):
  - Discuss and record your preliminary vote in conference, immediately following oral arguments. The justices will agree on a preliminary distribution of labor for writing an opinion of the Court, as well as a dissenting opinion, if necessary.
  - Produce written opinions, due approximately two weeks after the case has been argued. Each justice may choose to join in the opinion of another justice, or write a concurring or dissenting opinion. All justices joining an opinion will receive the same grade for that opinion. I expect opinions for each case will be approximately 5 pages.
Participation: This is your attendance and participation in class discussions. Our class will be very small, so its success will depend on the consistent preparation of each and every student. Especially in the second half, this course will largely be taught using “soft” Socratic method, in which dialogue between the teacher and students is essential. All students are expected to keep up with course materials, and come to class prepared to discuss both the details of readings and cases and the principles involved. For each class session, students are expect to:

- Attend all classes, having read the designated material from syllabus;
- Be well-prepared to discuss and answer questions about the week’s readings
- If you cannot attend a class, please let me know ahead of time

Class Schedule

Unit 1: Democratic Theory

- January 27, 29: Introduction and Defining Democracy
  - Reading: Sourcebook, Ch. 1
    - Larry Diamond, “Defining and Developing Democracy”
    - Robert Dahl, “Polyarchal Democracy”
    - Josep Colomer, Handbook of Electoral System Choice, pp. 13-52

- February 3: “Madisonian” Democracy
  - Reading: Sourcebook, Ch. 4
    - Robert Dahl, “Madisonian Democracy”
    - Federalist Papers #47, #48, #62, #70, #78

- February 5, 10: Democracy in the Rational Choice Framework
  - Reading: Sourcebook, Ch. 6
    - Marquis de Condorcet, “On Elections”
    - Gerry Mackie, “Saving Democracy from Political Science”
    - A.S. Tangian, “Unlikelihood of Condorcet’s Paradox in Large Society”
    - Douglas Rae, “The Political Consequences of Electoral Laws”

- February 12: Descriptive vs. Substantive Representation
  - Reading:
    - Cameron, Epstein, and O’Halloran: “Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?”

- February 17: Contemporary Theories of Representation
  - Reading:
    - Jane Mansbridge, “Rethinking Representation”
    - John Dryzek & Simon Niemeyer, “Discursive Representation”
Unit 2: Comparative Electoral Institutions

- February 19: Presidential vs. Parliamentary systems
  - Readings:
    - Matt Golder, “Democratic electoral systems around the world, 1946-2000”
    - *Sourcebook*, Ch. 5: Juan Linz, “The Perils of Presidentialism”
    - *Sourcebook*, Ch. 5: Scott Mainwaring, “Presidentialism, Multipartyism, and Democracy: The Difficult Combination”

- February 24, 26: Voting Systems & Party Systems
  - Readings:
    - Josep Colomer, *Handbook of Electoral System Choice*, pp. 53-68
    - Excerpts from Gary Cox, *Making Votes Count*
    - David Austen-Smith & Jeffrey Banks, “Elections, Coalitions, and Legislative Outcomes”

- March 3, 5: Considerations in Non-Western Democracies
  - Readings:
    - *Sourcebook*, Ch. 3: Ian Shapiro, “The State of Democratic Theory”
    - Russell Dalton & Aiji Tanaka, “Patterns of Party Polarization in East Asia”
    - Jack Nagel, “New Zealand’s Method for Representing Minorities”
    - Jennifer Gandhi & Ellen Lust-Okar, “Elections Under Authoritarianism”

- March 10: Midterm Review & Catch-Up

Midterm Exam in class Thursday March 12

NO CLASS MARCH 17 & 19: SPRING BREAK

Unit 3: The American Electoral System

- March 24, 26, 31: The Right to Participate
  - Readings:
    - Pamela Karlan, “Ballots and Bullets: The Exceptional History of the Right to Vote”
  - Focus Cases:
    - *Smith v. Allwright*
    - *South Carolina v. Katzenbach*
    - *Democratic Party v. Jones*
    - *Marion County vs. Crawford*

- NO CLASS THURSDAY, APRIL 2
• April 9, 14: Apportionment
  o Readings:
    ▪ Neil Malhotra and Connor Raso, “Racial Representation and U.S. Senate Apportionment”
  o Focus Cases:
    ▪ Baker v. Carr
    ▪ Reynolds v. Sims
    ▪ Karcher v. Daggett

• April 16, 21, 23: Districting
  o Readings:
    ▪ Cameron, Epstein, & O’Halloran: “Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?” (reread)
    ▪ Excerpt from David Lublin, The Paradox of Representation
  o Focus Cases:
    ▪ Thornberg v. Gingles
    ▪ Shaw v. Reno
    ▪ Georgia v. Ashcroft
    ▪ Vieth v. Jubelirer

• April 30: Campaign Finance
  o Focus Cases:
    ▪ Buckley v. Valeo
    ▪ McConnell v. FEC
    ▪ Citizens United

• May 7: Wrap-Up
  o Readings: None

Tentative Moot Court Dates:
• Case #1: Tuesday, April 7
• Case #2: Thursday, April 16
• Case #3: Tuesday, April 28
• Case #4: Tuesday, May 5

**Academic Honesty**

Academic dishonesty, such as plagiarism or cheating, is a violation of College policy and may result in a failing grade and/or other disciplinary measures. Please review the guidelines on “Principles of Intellectual Honesty” available in the Student Handbook (go to http://www.lafayette.edu/currentstudents and click on Student Handbook under Resources and Services), which elaborate College policy on plagiarism and academic integrity.