Ingram_CCP_Fall2016_rev2016-Aug-29

Course Description. "Due process" is a core element of democracy and the rule of law. But several questions commonly arise. What exactly is “due process”? What does it mean that “process” is “due”? Why does one set of legal protections constitute process that is more “due” than another set of protections? How do different countries answer these questions? What, if anything, can be done to improve due process in the U.S. by examining due process abroad?

Criminal procedure encompasses all the legal actors, institutions, and steps between them that make due process possible in the criminal justice system -- from police to prison, initial detention to final custody conditions and appeals. To meet our criteria for justice, the legal steps taken during the criminal process must be “just”, but there is broad disagreement among legal scholars, practitioners, and the general public about what “just” or “due” means in both theory and in practice. In order to better understand this disagreement, this course examines the patterns, sources, and consequences of criminal procedure both in the U.S. and abroad. Specifically, this course examines (a) conceptual and normative foundations of democracy and the rule of law; (b) different policies and practices of criminal procedure across countries and over time in order to identify best practices that align with the conceptual and normative foundations in (a), (b) the consequences of the practices in (b), and (c) different episodes of reform in order to better understand the political forces that seek legal change.

Restating, the course has four main sections. First, we begin by reviewing how criminal procedure relates to desired standards of democracy and the rule of law. Here, in addition to becoming familiar with core definitions of rule of law and democracy, we cover foundational legal documents of the U.S., including the Magna Carta, Declaration of Independence, and Constitution. Second, taking a topical approach organized according to the chronological phases of the criminal process, we examine six distinct stages of this process: (1) investigation, (2) arrest, search, and seizure, (3) interrogation, (4) pre-trial court procedures, (5) the trial itself, and (6) sentencing, custody, and appeals. In each phase, students first examine principles and practices of criminal procedure in the U.S., and then examine these principles and practices in 11 other countries, including England, France, Germany, and Italy representing Europe; Russia exemplifying the post-Soviet world, Israel illustrating a "security state", Egypt and South Africa representing Africa, and Argentina and Mexico representing Latin America. Third, we turn our attention to reform movements abroad, with particular attention to the Iberian Peninsula (Spain) and Latin America and the Caribbean, including recent and ongoing reforms in Chile, Colombia, Mexico, and several Caribbean and Central American countries. This section highlights the origins of these reform movements and the assessment of the effects of reform (causes and consequences). Finally, drawing on the insights gathered from the comparative analysis above, we return to the U.S. to examine how best practices identified elsewhere compare with current
practices here at home, emphasizing ways in which criminal procedure in the U.S. is either
exemplary or can be improved. Principal course requirements consist of short reflection papers,
quizzes, and an exam.

Pre-requisites. There are no pre-requisites for this course. However, *Introduction to
Comparative & International Politics* (RPOS 102) is strongly recommended. Other
recommended courses include *Introduction to Public Law, Constitutional Law, Rights, &
Liberties*, and *Comparative Judicial Politics*.

Readings. The main texts for this course are:

  Carolina Academic Press.

Copies of both texts are available at Mary Jane's bookstore. You can also find used and new
versions at various online booksellers. The texts will be supplemented periodically with journal
articles and other short pieces. Please see the class schedule below for a detailed list of the
reading assignments. Articles and other short pieces are available via the library’s electronic
databases, but I will also place them on Blackboard. If unavailable online, I will provide these
materials in class. We meet two times per week, and you should read ahead for each class.

Requirements and Grading
The requirements for this class and approximate weight of these requirements are:

- Participation: 10%
- Reflection Papers: 20%
- Scheduled Quizzes: 10%
- Random Quizzes: 10%
- Final Exam: 40%

Participation
Active engagement with the material is critical to your success in class. Generally, you need to
encounter the material at least three times in order for you to understand it in any depth. For
some people, this may be easy to do independently. However, for most people, the easiest and
fastest way to encounter the material three times is to (1) read for class, (2) participate in class
discussions, and (3) write notes, outline, or review the material for an exam. Therefore, staying
current with the reading and participating in class put you in a much better position to work with
the material when you take an exam or write a paper later in the course.

Considering the importance of participation and active engagement with the materials, several
elements of the course are designed to encourage you to come prepared for each day of class and
participate in class discussions and other activities. I generally assume that students start out with
100% of their participation grade, and either do things to consolidate that status or do things to
erode and reduce their participation grade. With this in mind, I pay attention to your participation
and engagement in class. One thing I will do from time to time is randomly call on someone to
answer a question about the assigned reading for that day. If I call on you and you can demonstrate that you have read and engaged with the material, then you strengthen your participation points. If I call on you and you are not there, or if I call on you and you have not done the reading, I deduct participation points. You can recover these points if you contribute more to future discussions. Two other concrete components that affect your participation grade are Reflection Papers and Quizzes (see below for details on each). Part of your participation grade is composed simply of completing these components on time and in person when they take place in class. I will also return this work in class, so if you are not there to receive returned work, this can affect your participation grade. We will also occasionally break up into smaller groups, and I will note attendance and participation in these sessions.

Separately, classroom conduct can also affect your participation grade. You are expected to promote a classroom environment that makes it easy for your peers to engage with the material. In this regard, please keep distractions to a minimum. With regards to technology in the classroom, please turn your phones and other handheld devices off during class. Texting during class is unacceptable. Laptop use is allowed for taking notes and other activities relevant to class, but sending emails, messaging, checking social media, or watching videos online is unacceptable. If you are texting, on social media sites, watching videos, or otherwise using technology inappropriately in the classroom, you will be asked to leave for the day. If you are asked to leave, please do so promptly and without disrupting the class further; if you would like to discuss why you were asked to leave, please contact me by email and we can discuss what happened at a later time. If this happens a second time, you will receive a zero (0) for your participation grade for the semester. If you have extraordinary circumstances that justify keeping your phone on during class (e.g., family or medical urgency), please let me know ahead of time, before class starts that day.

Reflection Papers
At scheduled times in the semester [see dates in class schedule], a Reflection Paper is due. These papers should be typed, at least one page in length, double-spaced, in Times New Roman, 12-point font. Reflection papers should identify specific components of criminal procedure addressed in the reading for that week, and assess (in your own opinion but also with references to the materials in weeks 1-2) which components in which countries seem to be “best practices”. That is, you should identify practices that are most in line with principles of democratic rule of law. Papers should be submitted in person within the first five (5) minutes of class.

Scheduled Quizzes
At scheduled times in the semester [see dates in class schedule], there will be a short online quiz on Blackboard. These quizzes will cover material from preceding weeks. Quiz questions will be in various formats (e.g., multiple choice, True/False, short answer), and if you have done the reading, come to class, and engaged with the material, there should be no surprises. Details will be provided in advance of each quiz.

Random “Pop” Quizzes
Separately, I will toss a coin at the start of class on Thursday each week to determine if there will be a random quiz. If the result is heads, there will be a short quiz on the reading for that day. If the result is tails, there will be no quiz. If you have done the reading for that day, you
should not have any trouble with the quiz. I will collect all quizzes within the first five minutes of class.

Other Policies.

Email. I expect you to check your email. You are responsible for material sent by email.

Late Work and Missed Exams. All work delivered in class must be turned in within the first 5 minutes of class on the day it is due, or by 5pm if there is no class on the due date. Without a legitimate (e.g., medical or family emergency) and documented explanation, late work will be penalized one letter grade (10%) for each day it is late, and it is considered late if turned in beyond the time limits above (i.e., after the first 5 minutes of class, or after 5pm on days there is no class; this includes weekends and holidays). I stop deducting points after 5 days (50%), so even if you are more than 5 days late on an assignment, it is better to turn something in rather than to have a zero for that assignment. No late work will be accepted after the last day of class. Reflection papers and random quizzes must be turned in at the beginning of class in order for you to receive credit towards your participation grade. No late random quizzes will be accepted. Either you are there to take the pop quiz, or you are not. No late exams will be given.

Academic Integrity. All students must familiarize themselves with the Standards of Academic Integrity on the University’s website and pledge to observe its tenets in all written and oral work, including oral presentations, quizzes and exams, and drafts and final versions of essays. The full standards and examples of dishonest behavior are available at:

The most common violation of academic integrity is plagiarism or cheating. My advice is simple: don’t do it. Don’t even think about doing it. Plagiarism is the use of someone else’s words or ideas without giving the original author credit by citing him or her. If you use someone else’s language directly, you must use quotation marks. If you rely on another person’s ideas in creating your argument, you must provide a citation. If you have any questions about plagiarism, please contact the professor before you submit the assignment for grading. Plagiarism or cheating will result in a failing grade for the assignment and the submission of your name to the Office of Conflict Resolution at the very minimum. Ignorance will not provide a defense to the application of this policy.

Americans with Disabilities Act (ADA). Qualified students with disabilities needing appropriate academic adjustments should contact me as soon as possible to ensure your needs are met in a timely manner.

Miscellaneous. If you feel you need any help or simply want clarification on any of the material, please do not hesitate to raise your question in class or approach me outside of class. I hold regular office hours. If you cannot arrange to come talk with me during these hours, please email me or contact the Department of Political Science administrative offices so that we can set up an appointment.

Changes to Syllabus. Changes to this syllabus may be made throughout the semester. I will announce any changes. You can check if you have the current version of syllabus by looking at date in footer.
CLASS SCHEDULE

WEEK 1 (8/30 and 9/01)
I. Introduction

Introductions; syllabus; overview of course; readings; Blackboard

* NO CLASS THUR., SEP. 1; APSA CONFERENCE, PHILADELPHIA *

WEEK 2 (9/06 – 9/08)
II. Criminal Procedure as Democratic Practice:
Due Process, Democracy, and the Rule of Law

- Required reading (divide 1-4 into 4 groups for Tue.; all read 5 for Thur):
  1. Group 1: Founding documents
     - Magna Carta
     - Declaration of Independence
     - U.S. Constitution
     - Bill of Rights
     - Amendments 13-14
  2. Group 2
     - Thaman, Ch.1
  3. Group 3
  4. Group 4 (read only conceptual parts in first half of each of these papers)

- Recommended reading
WEEK 3 (9/13 – 9/15)
III. Phase 1: Overview of Actors and Alternatives to Initiating the Prosecution

* DUE: REFLECTION PAPER #1 - TUE., SEP. 13 *

- Required readings:
  o Thaman, Ch.2
  o Chemerinksy and Levenson (2008), Ch.1

- Recommended readings:

WEEK 4-5 (9/20 – 9/29)
IV. Phase 2: Arrest, Search, Seizure

* DUE: REFLECTION PAPER #2 - TUE., SEP. 27 *

- Reading
  o Thaman, Ch.3
  o Dressler and Michaels (2010), Ch.4
  o Bradley, read through section II(B):
In following order:
- U.S., Canada, England/Wales
- France, Germany, Italy
- Israel, Egypt

WEEK 6-7 (10/04 – 10/13)
V. Phase 3: Interrogation

Quiz #1: complete during week of 10/04 (Blackboard; covers earlier material)

*DUE: REFLECTION PAPER #3 - TUE., OCT. 11 *

- Thaman, Ch.4
- Bradley, read section II(C):
  - In following order:
    - U.S., Canada, England/Wales
    - France, Germany, Italy
    - Egypt, Israel

MOVIE (Tuesday, 10/11): "Presunto Culpable" (Presumed Guilty; finish on 10/13)

WEEK 8-9 (10/18 – 10/27)
VI. Phase 4: Court Procedures – Pre-Trial

*DUE: REFLECTION PAPER #4 - TUE., OCT. 25 *

- Thaman, Ch.5: discovering and entering evidence
- Thaman, Ch.6: procedural economy
- Bradley, read section III(A):
  - In following order:
    - U.S., Canada, England/Wales
    - France, Germany, Italy
    - Egypt, Israel
- Recommended reading:

WEEK 10-11 (11/01 -11/10)
VII. Phase 5: Court Procedures – The Trial

Quiz #2: complete during week of 11/01 (Blackboard; covers earlier material)

*DUE: REFLECTION PAPER #5 - TUE., NOV. 8 *
• Thaman, Ch.7
• Bradley, read sections III(B):
  o In following order:
    ▪ U.S., Canada, England/Wales
    ▪ France, Germany, Italy
    ▪ Egypt, Israel

WEEK 12 (11/15 – 11/17)
VIII. Phase 6: Sentencing, Custody, and Appeals

*DUE: REFLECTION PAPER #5 - TUE., NOV. 8 *

• TBA (piece on sentencing, prison conditions, etc.)
• Bradley, read sections III(C):
  o In following order:
    ▪ U.S., Canada, England/Wales
    ▪ France, Germany, Italy
    ▪ Egypt, Israel
• Recommended readings:
    ▪ Contains materials on Brazil, Mexico, Germany, Yugoslavia, China, and international law

WEEK 13 (11/22 – 11/24)
IX. Criminal Procedure Reform: Sources of Legal Change

Required readings: divide among 4 groups (first 2 groups lead discussion on Tuesday; next two groups lead discussion on Thursday)
Group 1: World
• Required

Group 2: Spain
• Required
  o Bradley, 1st ed. (2002) chapter on Spain (Blackboard; not in 2nd ed.)

Group 3: Latin America
• Required
Group 4: Mexico

- **Required**
  - Chapter on Mexico from Bradley volume

- **Recommended**

*** NO CLASS THUR, NOV 24: THANKSGIVING BREAK***

**WEEK 14 (11/29-12/01)**

X. Criminal Procedure Reform: Consequences of Legal Change

**Quiz #3: complete during week of 11/29 (Blackboard; covers earlier material)**

**Required Reading:**

- **Chile**

- **Mexico**

**Recommended Reading:**


**WEEK 15 (12/06 – 12/08)**

XI. Bringing It All Together: Comparing Best Practices in U.S. and Abroad

* LAST DAY OF CLASSES, THUR., DEC. 8 *

**Required reading:**

Recommended reading:
• TBA

Review, evaluations, and course summary
New topics: international criminal law and procedure; empirical analysis of law in general; statistics and social science in law

FINAL EXAM:

The University has scheduled the final exam for this class on Friday, Dec. 16, 10:30-12:30. (See: http://www.albany.edu/registrar/registrar_assets/Fall_2016_Final_Examination_Schedule.pdf)

* Final Exam will be an online exam on Blackboard *
Exam will be open for 2 hours during a 3-day window that includes Dec 16. You will need to find a 2-hour time period in which to take the exam, which may or may not be the time period the University expects you to set aside for the final exam in this class.

Additional Resources:

(1) Websites
   a. Supreme Court Blog: www.scotusblog.com
   c. Law & Courts Section of American Political Science Association: http://www.law.nyu.edu/lawcourts
   d. Law & Society Association (LSA): http://www.lawandsociety.org
   e. Comparative Law Society: http://www.iuscomp.org
   h. Globalex legal research site (NYU): http://www.nyulawglobal.org/Globalex/
   i. Jurist legal research site (U. of Pittsburgh): http://jurist.org/
   j. World Treaty Index: http://worldtreatyindex.com
   k. Comparative Criminal Procedure course site at University of Chicago: http://guides.lib.uchicago.edu/compcrimpro
   l. Computational Legal Studies: http://computationallegalstudies.com

(2) Some relevant journals:
   a. International Journal of Constitutional Law
   b. Journal of Empirical Legal Studies
   c. Journal of Law, Economics, and Organization
   d. Journal of Legal Studies
   e. Judicature
   f. Justice System Journal
   g. Law and Social Inquiry
h. Law and Society Review

(3) Additional Texts
   i. Contains survey of criminal process in multiple countries, and then more focused debates on stages of process, especially trial.
   i. Emphasis on sentencing function of prosecutors and of increasing role of prosecutor in administering criminal sanctions.
   i. Specific chapters dedicated to Belgium, England, France, Germany, and Italy, and several topic chapters dedicated to procedural topics, e.g., public prosecutors, division of power between police and prosecutors, and the role of the judge.
   i. Contains chapters on France, Germany, and England and Wales, with additional overview and comparative chapters.