Course Description. "Due process" is a core element of democracy and the rule of law. 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. In an effort to identify best practices in criminal procedure and understand the causes and consequences of these practices, this course examines the criminal process across different countries and criminal procedure reform over time within individual countries. 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. Taking a topic approach organized according to the chronological phases of the criminal process, we examine five distinct stages of this process: (1) investigation, (2) arrest, search, and seizure, and (3) interrogation, (4) pre-trial court procedures, and (5) the trial itself. In each phase, student first examine criminal procedure principles and practices in the U.S., and then examine these principles and practices in 12 other countries, including England, France, Germany, and Italy from Europe; Russia exemplifies the post-Soviet world, Israel illustrates a "security state", Egypt and South Africa represent Africa, and Argentina and Mexico represent Latin America. Third, we turn our attention to reform movements abroad, with particular attention to the Iberian Peninsula (Spain) and Latin America, including recent reforms in Chile and ongoing reforms in Colombia and Mexico. This section highlights the origins of these reform movements and the assessment of the effects of reform. 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. Principal course requirements consist of short reflection papers and a longer research paper.

Pre-requisites. There are no pre-requisites for this course. However, Introduction to Comparative Politics is strongly recommended. Other recommended courses include Constitutional Rights, Judicial Process, and Comparative Judicial Politics.

Requirements

Readings. The main texts for this course are:

Used and new copies of texts are available at Mary Jane's bookstore and 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 electronic databases that can be accessed on Blackboard or the library. If unavailable online, I will provide these materials in class. We meet two times per week, and you should read ahead for each class.

Grading

- Reflection Papers: 20%
- Quizzes: 10%
- Abstract, Outline, and References: 15%
- Comments on Abstract and Outline: 15%
- Research Paper: 40%

Questions and Quizzes. 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. Two of these components are Reflection Papers and Reading Quizzes. On the Tuesdays of weeks 3, 5, 7, 9, and 11, 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, the practices that are most in line with principles of democratic rule of law. Papers should be submitted to me within the first five (5) minutes of class.

Separately, I will toss a coin at the start of class each Thursday to determine if there will be a 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.

No late papers or quizzes will be accepted. Either you are there to turn in the paper or take the quiz, or you are not.

Research Paper. A 10-page research paper is required for this class. The paper is actually an assignment in three parts. Part1: you must submit an abstract, outline, and references for this paper on [day, date]. The abstract should be no more than 300 words, the outline
should consist of at least two, single-spaced pages, and be annotated to provide sufficient
detail, and you should have a separate list of references at the end. Please submit two copies
of this document – one is for me and one is for one of your colleagues. I will
distribute the second copy in class the same day. Part2: your comments on your
colleague’s abstract and outline are due the following [day, date]. These comments must be typed separately so that your classmate can read them easily, and you should provide at least one, double-spaced page of comments covering concepts, theory, methods, case
selection. Please also submit two copies of these comments so that I can receive one copy for grading and your colleague can receive a copy of their own. Part3: the final paper is due on the last day of class, [day, date].

You will have the option of writing in one of four categories (if you prefer to write on a
topic that cannot fit into one of these four categories, we can arrange to do so):

(1) describe criminal procedure in a single country other than the U.S., identifying key components of the criminal procedure system and evaluating these components against desired or normative standards of democracy and the rule of law;

(2) compare criminal procedure across two or more countries (one can be the U.S.), identifying key components of the criminal procedure system in each country and assessing strengths and weaknesses of each system with regard to desired standards of democracy and the rule of law;

(3) describe current criminal procedure in a single country other than the U.S., identifying key components of the criminal procedure system, and explaining the reform process that yielded the current system; or

(4) describe current criminal procedure in two or more countries (one can be the U.S.), identifying key components of the criminal procedure system in each country, and explaining similarities or differences in the reform process in each country that yielded the current systems.

Each paper should follow the structure set out in the detailed document on paper
instructions, which I will distribute later in the semester. Make sure you refer to this
document in preparing your work for this assignment. We will also discuss the instructions in greater detail in class.

Additionally, make sure to cite all sources properly and include a bibliography. Papers
should be double spaced, and use 1-inch margins and 12-point, Times New Roman font.

I have provided some helpful resources on how to write social science papers online, as well as sources on how to read nonfiction books for content (i.e., quickly).

Note that the second part of the paper assignment involves commenting on one of your colleague’s work. You comments should offer constructive feedback that will help
strengthen your colleague’s paper. Also, your comments are being evaluated. Thus, as you make your comments, you should follow the five components of the paper identified above and make at least one comment on each component, gauging how well your colleague has addressed each section. For instance, is the research question clearly stated? Is it clear why this question is important or interesting? Further detail on this assignment will be covered in class.
Email. I expect you to check your email. You are responsible for material sent by email.

Late Work and Missed Exams. All work 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 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). Daily questions and quizzes must be turned in at the beginning of class – no exceptions. 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: http://www.albany.edu/undergraduate_bulletin/regulations.html.

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 will hold regular office hours throughout the summer session. If you cannot arrange to come talk with me during these hours, please call or email me, or contact the Department of Political Science administrative offices, so that we can set up an appointment.

CLASS SCHEDULE

WEEK 1
I. Introduction: Criminal Procedure as Democratic Due Process

Introductions; syllabus; overview of course

* NO CLASS THUR., AUG. 30 - APSA CONFERENCE *

WEEK 2
II. Due Process, Democracy, and the Rule of Law

- Required reading (divide 1-4 into two groups for Tue.; all read 5 for Thur):
  1. Thaman, Ch.1

- Recommended reading
    - Peter Evans. “Collective Capabilities, Culture, and Amartya Sen’s Development as Freedom.”
    - Frances Stewart and Severine Deneulin. “Amartya Sen’s Contribution to Development Thinking.”
    - Amartya Sen. “Reponse to Commentaries.”

**WEEK 3**

**III. Phase 1: Investigation**
- Thaman, Ch.2
- Investigatory process in U.S.

* DUE: REFLECTION PAPER #1 - TUE., SEP. 11 *

**WEEK 4-5**

**IV. Phase 2: Police Procedures – Arrest, Search, Seizure**

* NO CLASS TUE. 9/18 *
- Thaman, Ch.3
• Bradley, read through section II(B):
  o In following order:
    ▪ U.S., Canada, England/Wales
    ▪ France, Germany, Italy, Israel
    ▪ South Africa, Argentina, Mexico
    ▪ Egypt, China, Russia

* DUE: REFLECTION PAPER #2 - TUE., SEP. 25 *

WEEK 6-7
V. Phase 3: Interrogation
• Thaman, Ch.4
• Bradley, read section II(C):
  o In following order:
    ▪ U.S., Canada, England/Wales
    ▪ France, Germany, Italy, Israel
    ▪ South Africa, Argentina, Mexico
    ▪ Egypt, China, Russia

* DUE: REFLECTION PAPER #3 - TUE., OCT. 9 *

WEEK 8-9
VI. Phase 4: Court Procedures – Pre-Trial
• Thaman, Ch.5: discovering and entering evidence
• Thaman, Ch.6 – procedural economy
• Bradley, read section III(A):
  o In following order:
    ▪ U.S., Canada, England/Wales
    ▪ France, Germany, Italy, Israel
    ▪ South Africa, Argentina, Mexico
    ▪ Egypt, China, Russia

* DUE: REFLECTION PAPER #4 - TUE., OCT. 23 *

WEEK 10-11
V. Phase 5: Court Procedures – The Trial
• Thaman, Ch.7
• Bradley, read sections III(B)-(C):
  o In following order:
    ▪ U.S., Canada, England/Wales
    ▪ France, Germany, Italy, Israel
    ▪ South Africa, Argentina, Mexico
    ▪ Egypt, China, Russia

* DUE: REFLECTION PAPER #5 - TUE., NOV. 6 *
WEEK 12

VII. Criminal Procedure Reform in the Iberian Peninsula and Latin America: A Closer Look at Spain, Chile, Colombia, and Mexico

Spain
- Required
  - Bradley, 1st ed. (2002) chapter on Spain
- Recommended

Latin America
- Required

WEEK 13

*** PAPER ABSTRACTS & OUTLINES DUE TUESDAY ***

Chile
- Required reading:
- Recommended reading:

*** THANKSGIVING BREAK, NOV. 22-25 ***

WEEK 14

*** PEER COMMENTS ON ABSTRACTS & OUTLINES DUE TUESDAY ***

Mexico
- Required
  - Ingram, Matthew C., and David A. Shirk. 2010. "Judicial Reform in Mexico: Toward a New Criminal Justice System."
Struggle for Public Security: Organized Crime and State Responses.

- Recommended reading:

MOVIE (Thursday): "Presunto Culpable" (Presumed Guilty)

WEEK 15
VIII. Bringing It All Together

Best Practices Abroad
- Required reading:
- Recommended reading:
  - TBA

Comparing Best Practices Abroad and Practices at Home
- Required reading:
  - TBA
- Recommended reading:

WEEK 16
* LAST DAY OF CLASSES, TUE., DEC. 11 *
*** PAPERS DUE TODAY by 1:15 PM ***
Review, evaluations, and course summary
New topics: international criminal law and procedure; empirical analysis of law in general; statistics and social science in law

Additional Resources:

(1) Supreme Court Blog: [www.scotusblog.com](http://www.scotusblog.com)
(3) Law & Courts Section of American Political Science Association: http://www.law.nyu.edu/lawcourts

(4) Law & Society Association (LSA): http://www.lawandsociety.org

(5) Comparative Law Society: http://www.iuscomp.org


(7) Globalex legal research site (NYU): http://www.nyulawglobal.org/Globalex/

(8) Jurist legal research site (U. of Pittsburgh): http://jurist.org/

(9) World Treaty Index: http://worldtreatyindex.com

(10) Comparative Criminal Procedure course site at University of Chicago:
    a. http://guides.lib.uchicago.edu/compcrimpro

(11) Computational Legal Studies: http://computationallegalstudies.com

(12) 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