Institutional Design Theory and Public Law: Seminar
Professor Matthew C. Stephenson
Fall 2011, Thursdays 5:00-7:00 (Lewis 202)

Course Description

The goal of this seminar is to introduce students to a body of legal scholarship that seeks to apply ideas and insights from the social sciences (particularly political science and economics) to a range of questions concerning the optimal design of legal and political institutions. Each week, we will read and discuss contemporary legal academic scholarship in this genre.

Assignments

Students are expected to read all the assigned material (approximately 150-200 pages per session) carefully before each meeting, and to come each week prepared to be an active participant in our seminar discussions.

There is no written assignment for the first class meeting on September 15th. In 8 of the 11 remaining sessions, each student should write a short reaction paper based on that week’s readings. (You can choose which of the weeks you will turn in a paper, and you do not need to let me know in advance.) The reaction paper should be 3-5 pages long (double-spaced, normal font). You have a great deal of freedom in what you choose to write, but ideally your reaction papers should raise issues and questions that might serve as grist for discussions in our weekly meetings. The weekly reaction papers are due by 4:00 p.m. on the Wednesday before our weekly meeting. Please email them both to me (mstephen@law.harvard.edu) and my assistant Kaitlin Burroughs (kburroughs@law.harvard.edu).

Students who are interested in writing a longer paper, based on themes and topics covered in the seminar, are encouraged to enroll in the spring semester writing workshop. If this is something you are interested in doing, please let me know and I’ll be happy to talk with you during office hours, or by appointment, about your paper topic ideas.

Reading Materials

The reading packet (in three volumes) is available from the Distribution Center. All the assigned papers are also available on-line via Lexis, Westlaw, or Hein Online.
Course Schedule and Reading Assignments

**Introduction: Institutional Design and Legal Institutions**

**Week 1 (Sept. 15): Comparative Institutional Competence**


**Part I: Institutional Design and Democratic Government**

**Week 2 (Sept. 22): Political Competition and Majority Rule**


**Week 3 (Sept. 29): Separation of Powers and Political Accountability**


**Week 4 (Oct. 6): Promoting Democratic Deliberation**

Week 5 (Oct. 13): Legislative Process and the Prevention of Legislative Capture


**Part II: Institutional Design and Constrained Government**

Week 6 (Oct. 20): Protecting Political Minorities

- Daryl J. Levinson, *Rights and Votes* (2011 draft)

Week 7 (Oct. 27): The Problem of Credible Pre-Commitment


Week 8 (Nov. 3): Judicial Enforcement of Constitutional Restraints


**Part III: Institutional Design and Smart Government**

Week 9 (Nov. 10): Rational Information Acquisition

Week 10 (Nov. 17): Learning, Experimentation, and Innovation


Week 11 (Dec. 1): Combating Cognitive Bias


**Conclusion: Institutional Complexity**

Week 12 (Dec. 8): System Effects and Unintended Consequences