

Political Science 3200: Introduction to Law and Politics

Spring 2014: Tues/Thurs 12:25pm-1:45pm, CRCC 215

Professor: Daniel Levin
Office: OSH 210D
Phone: 801-587-9096
Email: daniel.levin@utah.edu
<http://www.poli-sci.utah.edu/~dlevin/>

Office Hours:
Tues: 2-3 pm
Thur: 10:45-11:45am
or by appointment

Teaching Assistant: Oakley Gordon
Office: OSH 154D
Phone: 801-581-6711
Email: oakley.b.gordon@gmail.com

Office Hours:
Thurs 2-4
or by appointment

Course Objectives: This course will examine law through the lenses of political and moral theory. We will endeavor to define the moral and political values embodied in the Anglo-American legal tradition by discussing political and legal philosophy, judicial opinions, and the consequences of the law for American politics. In particular, the course will revolve around two questions: What is law? And, how does the law balance ideals of responsibility and freedom? While we will often use legal cases and other materials in our work, our primary purpose is to examine the principles underlying Anglo-American law, the political principles and biases which are embodied in the law, and the role of judges and judicial institutions in shaping the law.

Course Requirements and Methods of Evaluation: There will be four papers in which you will be expected to demonstrate your ability to apply concepts and theories from the readings, lectures and class discussion. You will have 9 days to complete each 4-5 page paper, in which you will write on one of two provided essay questions. There will also be multiple choice quizzes for each section on the material we have reviewed. The points from all the quizzes will be pooled together and the final grade established on a curve. The quizzes will be administered through the clickers; please do not forget to bring them to class.

Clickers and Participation Grade: Participation is essential. **I expect you to complete all of the assigned reading before the class for which it was assigned and I reserve the right to call on anyone at anytime.** We will be using an electronic response system (clickers). Your participation grade (20%) will be in large part determined through your participation in clicker exercises) as well as your willingness to engage in discussion. During class, I will regularly ask you questions or present you with hypothetical or actual cases and ask you to choose, via clicker, among several options as to which is the best solution to the problem presented as a way to begin our discussion. Register your clickers as soon as possible; instructions are [here](#). The first quiz will be approx. Jan. 23; you must have registered your clicker by that date in order to receive points. Please make sure that you've set up your notifications via Canvas by that date as I will be sending messages through Canvas.

The use of both laptop computers and cell phones during class is strictly prohibited. For an explanation of this policy, please see [here](#).

Required Materials: There is one required book: David M. Adams, *Philosophical Problems in the Law*, 4th Ed. (Wadsworth, 2005), henceforth *PPL*. This book is not available at the bookstore, but is widely available online. Other readings are found on Canvas.

Your grade will be computed as follows:

Classroom Participation	20%	Date Assigned/Date Due
Quizzes	15%	Completed with each section
Paper 1	15%	Assigned Jan. 28, Due Feb. 6
Paper 2	15%	Assigned Feb. 25, Due March 6
Paper 3	15%	Assigned March 25 , Due April 3
Final Paper	20%	Assigned April 22, Due May 1

Non-negotiable Policy on Late Papers and Unsubmitted Work: Papers will be accepted until 5 pm on the date due in my mailbox in the Political Science department office (OSH 252). I will lower a paper grade one full grade if you submit a paper due on a date for which you have an unexcused absence. Late papers will lose one full grade if submitted within a week of due date; after a week, papers will not be accepted. **Failure to submit any assignment during the semester will result in failure of the entire course. All work must be submitted both through Canvas and in hard copy.** Proper grammar and style are important; please refer to Strunk and White, *Elements of Style* (easily found and well worth purchasing) while writing your memoranda to improve your writing. To encourage multiple drafts and proper proofreading, **all submissions must have an edited print version of an earlier draft stapled to the back of the final draft.**

Academic Misconduct: All quotes must be cited as such and include a clear reference to the work from which they were drawn; they will otherwise be treated as plagiarism. All use of materials other than course materials must be accompanied by full citations. All work in this course is assigned as individual work; working as groups or teams is strongly discouraged (and may be treated as cheating), as is all but the most casual assistance from others; this includes spouses and other family members. If you intend to submit a paper which significantly draws upon work for another class, you must first receive explicit permission to do so from both myself and the other instructor. **Any form of academic dishonesty will result in a failing grade for the course and other disciplinary action, up to expulsion from the University.** Please note that you should keep a copy of your work. When working on a computer, always make a back-up; computer malfunction is not an excuse.

Americans with Disabilities Act Notice: Persons with disabilities requiring special accommodations to meet the expectations of this course should provide reasonable prior notice to the instructor and to the Center for Disability Services, 162 Olpin Union Building, 801-581-5020 (V/TDD) to make arrangements. Written material in this course can be made available in alternative format with prior notification.

Accommodation of Sincerely Held Beliefs: I will work with students who require schedule changes due to religious or other significant obligations. I will not consider any requests based on course content. Because modern American politics includes many debates over sexuality, obscenity, religious practice and belief, and political ideology, any class that did not address such issues would be substantially limited. Students are required to attend all classes and to read all assignments. All assignments and lectures are related to our subject matter, and I do not include gratuitously salacious material. If you have any objection to the frank and open discussion of any of the topics above, including the use of adult language appropriate to subject matter, please drop the class.

The following schedule is approximate and subject to additions, deletions and substitutions. Please remember that you are responsible for the entire text assigned; the named readings are simply those to which additional attention will be paid in class.

Schedule of Classes and Assignments

Jan. 7 – Introduction to Course

Jan. 9, 14, 16 - What is Law?

PPL: Trial of Border Guards, 19; Jackson, “Opening Address for the United States, Nuremberg Trials,” 22; Wyzanski, “Nuremberg: A Fair Trial,” 28; Fuller, The Problem of the Grudge Informer, 159.

Jan. 21, 23, 28, 30 - Natural Law and Positive Law

PPL: Introductions, 40-46, 83-89; Hart, “Positivism and the Separation of Law and Morals,” 61; Fuller, Positivism and Fidelity to Law,” 70; Aquinas, “What is Law,” 76; King, “Letter from Birmingham Jail,” 78; Holmes, “The Path of the Law,” 89; Frank, “A Realist View of the Law,” 95; Dworkin, “Law as Integrity,” 111; *Riggs et al. v. Palmer*, 149; *The Antelope*, 157.

Canvas: Locke, Of the State of Nature; Bentham, Critique of ... Natural Rights

January 28 - First Paper Assigned, Due February 6.

Feb. 4, 6, 11, 13 – When Law Defines Morality

PPL: *South Florida Free Beaches v. City of Miami*, 199; Mill, *On Liberty*, 200; Devlin, “The Enforcement of Morals,” 202; Hart, *Law, Liberty and Morality*, 207; Dworkin, “Devlin was Right,” 209; *Cohen v. CA*, 217; *American Booksellers Assn v. Hudnut*, 237; Feinberg, “Obscenity as Pornography,” 241; *Lawrence v. Texas*, 259; *People v. Boomer*, 271.

Canvas: Haidt, “Where Does Morality Come From?”

Feb. 18, 20, 25, 27.– When Law Defines the Family

PPL: Bork, *The Right of Privacy*, 188; *Griswold v. Connecticut*, 254; *Reynolds v. U.S.*, 273; *Baehr v. Lewin*, 319; Sunstein, “Homosexuality and the Constitution,” 322; *Michael H. v. Gerald D.*, 349; Balkin, “A Critique of *Michael H.*,” 353; *Johnson v. Calvert*, 359; *Loving v. Virginia*, 370.

Canvas: *Goodridge v. MA Dept. of Public Health*; *Kitchen v. Herbert*

February 25 - Second Paper Assigned, Due March 6.

March 4, 6, 18 – Quandaries of Equality

PPL: Equal Protection Law, 277; *Grutter v. Bollinger*, 284; Westen, Puzzles about Equality, 293; Nagel, “A Defense of Affirmative Action,” 300; Steele, “Affirmative Action,” 303; *House Resolution 40*, 308; *Cato v. U.S.*, 309

Reserve: Gifford, “The Legal Basis of the Claim for Slavery Reparations”; Tateishi & Yoshino, “The Japanese American Incarceration”

Spring Break: March 9-15

March 20, 25, 27 – Problems of Property

Canvas: Locke, Of Property; Fletcher & Sheppard, “Contemporary Property”; *Conatser v. Johnson*; *J.J.N.P. Co. v. State of Utah*; Utah H.B. 141; Mehlman, *Moore v. Regents of the University of California*; *Moore v. Regents of the University of California*.

March 25 - Third Paper Assigned, Due April 3.

April 1, 3, 8 – Torts, Responsibilities, and Relationships

PPL: Law of Tort, 517-524; *Holden v. Wal-Mart*, 525; Coleman, “Tort Law and Tort Theory,” 539; Acts, Omissions, and the Duty to Rescue, 586; *McFall v. Shimp*, 590; Macaulay, “Against a Legal Duty to Rescue,” 591; Weinrib, “The Case for a Duty to Rescue,” 593; *Summers v. Tice*, 607; *Yania v. Bigan*, 609.

April 10, 15 - Mental State and Crime

PPL: *State v. Leidholm*, 421; Rosen, *The Battered Woman’s Defense*, 423; *State v. Cameron*, 430; Morris, *The Abolition of the Insanity Defense*, 433; Morse, Excusing the Crazy, 437; *Atkins v. Virginia*, 471; *The Case of the Dog “Provetie,”* 503.

Canvas: Monterosso and Schwartz, “Did Your Brain Make You Do It?”

April 17, 22 - Theories of Punishment

PPL: “Punishment and Responsibility,” 442; *Lockyer v. Andrade*, 446; Dolinko, “The Future of Punishment,” 449; Bentham, *A Utilitarian Case for Deterrence*, 452; Moore, *The Argument for Retributivism*, 456; “The Death Penalty,” 466; *McCleskey v. Kemp*, 490; *Payne v. Tennessee*, 504; *Gregg v. Georgia*, 512.

April 22 - Final Paper Assigned. Due Thursday May 1 before 5 pm. NO submissions accepted after 4 pm on Monday May 5.