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Office Hours:
Tues/Thurs: 12-1 pm
or by appointment
Summer 2007

Political Science 3200: Introduction to Law and Politics

Tuesday/Thursday, 9-12, BUC 206, First Session

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 on 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 decisions which are embodied in the law, and the role of judges and judicial institutions in shaping the law. This course will not teach you any practical law, nor is it meant to prepare you for law school.

Course Requirements and Methods of Evaluation

There will be two midterm papers and a final paper, on which you will be expected to demonstrate your ability to apply concepts and theories found in the readings, lectures and class discussion. You will have a week to complete each 4-5 page paper, in which you will write on one of two provided essay questions. You will also have a chance to rewrite one of your first two papers (those due May 31 and June 14) and use the grade on the revision in place of the original grade. You must submit the revised version by June 28 to do so.

Your grade will be computed as follows:

Classroom Participation	25%	Date Assigned/Date Due
Paper 1	25%	Assigned May 24, Due May 31
Paper 2	25%	Assigned June 7, Due June 14
Final Paper	25%	Assigned June 19, Due June 26

Required Materials

There are two required books that may be purchased at the University Bookstore: David M. Adams, *Philosophical Problems in the Law*, 4th Ed. (Wadsworth, 2004), henceforth *PPL*, and Lief Carter, Austin Sarat, Mark Silverstein, and William Weaver, *New Perspectives on American Law* (Carolina Academic Press, 1997), hereafter *NPAL*.

Non-negotiable Policy on Late Papers and Unsubmitted Work: Papers will be accepted until 5 pm on the date due; I have mailboxes in both the Political Science department office (OSH 252) and the Masters in Public Administration office (OSH 214). 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.**

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.

Please note: All work must be submitted through turnitin.com and in hard copy; instructions for submitting work through turnitin.com will be attached to the first assignment.

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, 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.

***Disclaimer:** 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 cases are simply those to which additional attention will be paid in class.

Schedule of Classes and Assignments

May 15 - 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.

May 17 - 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.

May 22 – Contract Law

NPAL: Contracts, 295-306; *Lucy v. Zehmer*, 301; “Seven Elements of Contract Law,” 309; *Hamer v. Sidway*, 314; *Feinberg v. Pfeiffer Co.*, 316; *Webb v. McGowin*, 322; Contract Law in American Political History, 326-333; *Toker v. Westerman*, 333; *Stambovsky v. Ackley*, 335; *In The Matter of Baby M*, 341.

May 24 - Property, Its Use by Others, and Excluding Others

NPAL: *Commonwealth Bldg. Corporation v. Hirshfield*, 394; *Edwards v. Habib*, 396; Covenants, 408; *Tulk v. Moxhay*, 409; *Shelley v. Kraemer*, 410; *Barrows v. Jackson*, 415; *Finn v. Williams*, 438; *Marrone v. Washington Jockey Club*, 446; *Stoner v. Zucker*, 447

First Paper - Assigned May 24, Due May 31.

May 24 – No Office Hours

May 29 - Torts, Positive Responsibilities, and Special Relationships

NPAL: Torts in Common Law, 207-221; *Vosburg v. Putney*, 222; *MacPherson v. Buick Motor Co.*, 254; *Tarasoff v. Regents of University of California*, 274; *Field v. Philadelphia Electric*, 289

PPL: Law of Tort, 517-524; Acts, Omissions, and the Duty to Rescue, 586; *McFall v. Shimp*, 590; Macaulay, “Against a Legal Duty to Rescue,” 591; *Yania v. Bigan*, 609.

May 31 - Defining Cause and Negligence

NPAL: *Sindell v. Abbot Laboratories*, 230; *Wood v. Pennsylvania R.R. Co.*, 236; *U. S. v. Carroll Towing Co.*, 240; *Kumkumian v. New York*, 245; *The Nitroglycerine Case*, 248; *Madsen v. East Jordan Irrigation*, 250; *Micallef v. Miehle*, 259.

PPL: Coleman, “Tort Law and Tort Theory,” 539; Cramton, “Individualized Justice and Mass Torts,” 549; Causation and Liability, 554; *Lynch v. Fisher*, 560; *Palsgraf v. Long Island Railroad*, 563; Thomson, *The Decline of Cause*, 577; *Summers v. Tice*, 607.

June 5 - Crime and Morality

NPAL: *Robinson v. California*, 113; *Bowers v. Hardwick*, 134.

PPL: Bork, *The Right of Privacy*, 188; Mill, *On Liberty*, 200; Devlin, “The Enforcement of Morals,” 202; Hart, *Law, Liberty and Morality*, 207; Dworkin, “Devlin was Right,” 209; *American Booksellers Assn v. Hudnut*, 237; Feinberg, “Obscenity as Pornography,” 241; *Griswold v. Connecticut*, 254; *Lawrence v. Texas*, 259.

June 7 - Criminal Law and Intent

NPAL: Model Penal Code Section 2.02, 140; *New Jersey v. Sikora*, 142; *Morissette v. U.S.*, 148; *Regina v. Morgan*, 154; *State v. Ollens*, 156; *Girouard v. State*, 159; *People v. Washington*, 163; *People v. Kibbe*, 169.

PPL: “What is a Crime,” 385-390; *People v. Dlugash*, 391; Kadish, “Criminal Law and the Luck of the Draw,” 397.

Second Paper - Assigned June 7, Due June 14.

June 12 - Necessity and Self-Defense

NPAL: *The Queen v. Dudley & Stephens*, 182; *State v. Warshow*, 186; New Jersey Statutes Section 2C:3-4, 191; *People v. Goetz*, 192; *People v. Ceballos*, 196; *State v. Norman*, 199.

PPL: Justification and Excuse, 406; *State v. Leidholm*, 421; Rosen, *The Battered Woman's Defense*, 423

June 14 - Mental Competence and Crime

NPAL: Model Penal Code Section 4.01, 173; *People v. Drew*, 175.

PPL: *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.

June 19 - 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.

June 19 – Last Day of Class.

June 19 - Final Paper Assigned. Due June 26. Not accepted after 5 pm on June 28.

June 28 – Last Day to submit revision of either Paper 1 or Paper 2 for substitute grade.