

POLS 4080
Fall 2016
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Legal Theory

Why do judges and legal practitioners disagree about the proper approach to reasoning about the law? What standard should judges apply when interpreting contested questions of law? If judges are not bound by the literal terms of statutory law, do they then possess unfettered discretion to amend the law?

In this course, we will focus on the form of reasoning that judges employ in deciding cases. The course aims to provide students with an understanding of some of the major issues and controversies faced by courts in interpreting and evaluating legal arguments. We will discuss the major schools of contemporary legal theory: positivism, integrity in law, law and economics, critical legal studies and feminist legal theory. Students should complete the course with the ability to read, follow and discuss intelligently the evolution of contemporary legal doctrine.

These texts are available at the University Bookstore:

Ronald Dworkin, *Taking Rights Seriously* (Harvard University Press)

Ronald Dworkin, *Law's Empire* (Harvard University Press)

H. L. A. Hart, *The Concept of Law* (Oxford University Press)

A packet of supplemental readings will be available at Beljeans after the midpoint of the semester.

Assignments

I. *Positivism: H. L. A. Hart*

Thursday, August 11
Introduction

Tuesday, August 16
The Concept of Law: 1-29, 42-49

Thursday, August 18
The Concept of Law: 50-71, 79-96

Tuesday, August 23
The Concept of Law: 100-123

Thursday, August 25
The Concept of Law: 124-136

II. *Integrity in Law: Ronald Dworkin*

Tuesday, August 30
Taking Rights Seriously: 1-31

Thursday, September 1
No Class

Tuesday, September 6
Taking Rights Seriously: 31-45, 81-100

Thursday, September 8
Review

Tuesday, September 13
Taking Rights Seriously: 101-137

Thursday, September 15
Taking Rights Seriously: 137-149

Tuesday, September 20
Law's Empire: 1-20

Thursday, September 22
Law's Empire: 20-48

Tuesday, September 27
Law's Empire: 48-65

Thursday, September 29--FIRST PAPER DUE
Review

Tuesday, October 4
Law's Empire: 65-86

Thursday, October 6
Taking Rights Seriously: 150-168

Tuesday, October 11
Affirmative Action Case Discussion

Thursday, October 13
Law's Empire: 151-175

Tuesday, October 18
Law's Empire: 176-195

Thursday, October 20
Law's Empire: 195-219 (skim 220-224)

III. *Law and Economics*

Tuesday, October 25
Posner (packet): 81-102

Thursday, October 27
Dworkin (packet): 237-66

Tuesday, November 1
Coleman (packet): 1-22
Fletcher (packet): 248-54, 275-8

IV. Integrity (cont.)

Thursday, November 3
Law's Empire: 355-373, 387-392

V. *Originalism*

Tuesday, November 8
Scalia, Bork (packet)

Thursday, November 10--SECOND PAPER DUE
Dworkin (packet)

V. *Critical Legal Studies and Feminist Legal Theory*

Tuesday, November 15
Tushnet, D. Kennedy (packet): 157-178; 36-55 (skim)

Thursday, November 17
Minow, Nussbaum (packet): 56-76, 167-188

Tuesday, November 29
Ackerman (handout)

Thursday, December 1
Review

Tuesday, December 13--FINAL PAPER DUE

Requirements

There are three course requirements. First, each student will write three papers on topics addressed by this class. The due dates for these papers are indicated in the list of assignments. Second, there will be five in-class quizzes. The third requirement is engaged participation.

The course syllabus is a general plan for the course; deviations announced to the class by the instructor may be necessary.

Grades

The three papers will constitute 90% of the course grade. The quizzes will count for 10%. Any semester average falling between two letter grades will be resolved according to the quality of class participation. The instructor reserves the right to raise the letter grades of students who have participated exceptionally well over the course of the semester. Grades are calculated on a 4-point scale.

Attendance is mandatory, and the instructor reserves the right to make up to a ten percent reduction in the overall course grade in the case of poor attendance. Assignments handed in late will be subject to significant grading penalties. A makeup quiz will be scheduled at the end of the semester for students who have missed one or more quizzes.

The instructor reserves the right to lower the letter grades of students whose behavior in class falls below the standards of civility and respect for fellow students expected of UGA students.

Finally, you are bound by the University's conduct regulations concerning academic honesty. In the context of this course, the inaccurate presentation of written materials as your original work would constitute academic dishonesty. All academic work must meet the standards contained in a culture of honesty. Students are responsible for informing themselves about those standards before performing any academic work.