POLS 4080 Office: 404 Baldwin

Spring 2021 542-2922

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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.

The class will meet in person and will be viewable online according to the university’s hybrid model. Since 58 students may occupy the room simultaneously while observing social distancing, each student may attend every class in person. The final assignment will be submitted online.

 *Assignments*

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

Thursday, January 14

Introduction

Tuesday, January 19

*The Concept of Law:* 1-29, 42-49

Thursday, January 21

*The Concept of Law:* 50-71, 79-96

Tuesday, January 26

*The Concept of Law:* 100-136

II. *Integrity in Law*: Ronald Dworkin

Thursday, January 28

*Taking Rights Seriously*: 1-31

Tuesday, February 2

*Taking Rights Seriously*: 31-45, 81-100

Thursday, February 4

Review

Tuesday, February 9

*Taking Rights Seriously*: 101-137

Thursday, February 11

*Taking Rights Seriously*: 137-149

Tuesday, February 16

*Law's Empire*: 1-20

Thursday, February 18

*Law's Empire*: 20-48

Tuesday, February 23

*Law's Empire*: 48-65

Thursday, February 25

*Law's Empire*: 65-86

Tuesday, March 2

*Taking Rights Seriously*: 150-168

Thursday, March 4

Affirmative Action Case Discussion

Tuesday, March 9

*Law's Empire*: 151-75

Thursday, March 11--FIRST PAPER DUE

Review

March 16

No class

March 18

No class

Tuesday, March 23

*Law's Empire*: 176-95

Thursday, March 25

*Law's Empire*: 195-219 (skim 220-24)

III. *Law and Economics*

Tuesday, March 30

Posner (packet): 81-102

Thursday, April 1

Dworkin (packet): 237-66

Tuesday, April 6

Coleman (packet): 1-22

Fletcher (packet): 248-54, 275-84

Thursday, April 8

No class

IV. Integrity (cont.)

Tuesday, April 13

*Law's Empire*: 225-250

Thursday, April 15

*Law's Empire*: 355-79, 387-92

*V. Originalism*

Tuesday, April 20

Scalia, Bork (packet)

Thursday, April 22--SECOND PAPER DUE

Dworkin (packet)

*VI. Critical Legal Studies and Feminist Legal Theory*

Tuesday, April 27

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

Thursday, April 29

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

Tuesday, May 12--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.