

POLS 3321—Jurisprudence

Dr. Randy LeBlanc
Fall 2021

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CAS 113 (rleblanc@uttyler.edu)
Office Hours: 4-5p M 1-2p Th (CAS 113) and 10a-12noon W (on Zoom);
and by appointment

Jurisprudence: The Study of Legal Philosophy

This course is specifically designed to introduce students to philosophical conceptions of law and the use of those philosophical approaches in legal reasoning. We will examine the way legal philosophers from Aquinas to Finnis, Austin to Hart to Dworkin to Feminist theorists and Critical Race theorists have all confronted and answered fundamental questions about the law, including ‘What is law?’ ‘What connection, if any, is there between our legal duties and morality?’ ‘Can a valid law make us do something immoral?’ ‘What makes a law binding?’ and ‘How should our understanding of law shape our conception of society and of ourselves as citizens?’

LEARNING OBJECTIVES: Students will learn how to read legal philosophical works critically. Through reading assignments, discussion and written assignments the student will become familiar with various approaches to problems in legal philosophy and theory and how those attitudes shape our own. The format of the class is lecture and discussion. All discussion and written work in the class is intended to develop students' critical thinking, reading and writing skills. As you do the classwork, as you read, write essays, study, and prepare for examinations, you should keep in mind that the assigned work in this class is intended to help you develop your skills in the following ways:

1) Recognizing IDEAS/FACTS, that is, develop the ability to recognize key ideas and facts.

--key *terms* and their *meanings* (including how those meanings differ across periods and thinkers)

--*who* wrote *what*

--*what* it *says*

2) Making CONNECTIONS, that is, develop the ability to see connections between and among ideas and the ability to see *how* an author says what s/he says:

--recognition of the *structure* of the author's discussion (what steps are involved in the way s/he tries to explain his or her position or persuade the reader?)

--recognition of the *assumptions* that inform the development of ideas

--recognition of the relative *weight* of ideas (e.g., what is the main *idea*? what are the supporting *ideas*?)

3) Using EXTENSIONS, that is, develop the ability to extend the ideas beyond their context, that is, to make use of them in your own thought without distorting them or violating their meaning.

--what are the implications of the author's position and the way s/he makes the argument?

--what did the author leave out?

--what value may we derive from the author's discussion?

The development of a critical voice means attending to each of these—IN ORDER. You cannot critique an argument unless and until you can make and defend it on its own terms. A concerted effort at understanding is the minimum requirement of a student of political theory and the mere baseline of what you will be asked to do in this course.

TEXTBOOK: The edition of this text was carefully chosen and is required for the course. Students choosing to use a different or earlier edition are solely responsible for any reconciliation of differences.

--Culver and Guidice, editors, *Readings in the Philosophy of Law*, third edition (Broadview Press, 2017)

CANVAS: All written and graded assignments will appear on Canvas. Assignments can be found under the “Syllabus,” “Assignments,” and “Modules” tabs on the Course page. All written and graded work will be submitted via Canvas. Students will also find supplementary handouts and readings on Canvas. All modules, essays, and attendance/participation grades are weighted as part of your final grade.

COURSE REQUIREMENTS: Grading is done on a 10-point scale: A = 90-100; B = 80-89; C = 70-79, etc. The formal requirements of the course and their relative impact on your final grade are as follows:

1) Class Attendance/Participation/Midterm Paper Presentation

8%

Legal theory necessarily involves discussion and, in that vein, discussion involves taking cues from gestures, tone of voice, etc. To serve this end, you are expected to attend our class meetings regularly and to participate in our class discussions. Bring your understanding of the readings, your questions, your answers, and your insights to our Zoom meetings and be ready to articulate and discuss them. You will also make brief presentation of your midterm essay in a more general class discussion at midterm. We will discuss the parameters of this presentation in class.

(2) Modules: Readings and Assignment Worksheets

4 Modules (3 x 13%; 1 x 11% each) = 50%

The course is divided into 4 units or modules. You can find the modules under the “Modules” tab on the course’s Canvas page. Each module consists of several reading assignments (listed below in the syllabus). Each module is also divided into worksheet assignments. Each worksheet assignment refers to specific readings and includes an *Assignment Worksheet* that must be completed in the week that it is assigned. ***These assignments cannot be made up.***

The Assignment Worksheets consist of three (3) Analytical Questions about the readings. You will be asked to read the assigned texts and answer the accompanying questions. USING ONLY THE TEXTS YOU READ and in your own words, respond to each question in a coherent, comprehensive paragraph (no lists!) of neither more nor less 100 words each. Be clear, comprehensive, and don’t waste words. ***Missed worksheets cannot be made up.***

(3) Midterm Essay (17%) and Final Essay (25%)

42%

Students will be asked to write analytical essays on some aspect of the class material using specific works we have read. These WILL NOT be research papers. Students are expected to limit themselves to the material we have read and discussed and to demonstrate their own substantial analytical abilities. The two semester essays will be 2 pages each, uploaded to Canvas as a Word doc (double-spaced, 12-point font, Times New Roman, etc.) and the final essay will be comprehensive and 3-4 pages in length (Word doc, double-spaced, 12-point font, Times New Roman) uploaded to Canvas. See the assignments for further instructions. Below are some guidelines for writing your essays:

WARNING: IGNORE THE FOLLOWING PAPER GUIDELINES AT YOUR PERIL:

(1) DO NOT try to avoid addressing the issues by talking about the author’s writing style, difficulty, etc. In this class, as in all of your classes in political science, ***you are considered a professional willing to work to understand difficult material.*** You can always ask the teacher for help, too, but do it BEFORE the day you turn in your paper.

(2) Write in reasoned, professional terms. Use your best English: there is no excuse for misspellings; make sure all of your sentences have subjects, verbs, and objects; make sure they match in number; do not use contractions; write in paragraphs (change to a new *but related* thought = new paragraph) above all, do not write the way you speak! Write like a professional.

(3) Focus on one or two ideas or issues that are common to all the readings. Do not simply rehearse the argument of the author—in the space allotted, you do not have the time! Your task is to discuss the readings in terms of the one or two most important ideas or issues that you have identified. As a start, consider the issues raised in our discussions in class and where this author/idea fits. ***Add your own insights where appropriate. Raise questions and critical issues—do not rant.***

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(4) These are NOT research papers. Limit yourself to the texts before you. The assignment is designed to get you to read closely, carefully, and analytically. Resist the urge to run to the internet. Force yourself to deal with the text, come to some understanding of the issues raised, and, craft your own argument.

SYLLABUS/READING SCHEDULE

READINGS: *Students are expected to come to class having read the reading assigned for that day's class. STUDENTS ARE RESPONSIBLE FOR ALL MATERIAL IN THE READINGS—WHETHER THERE IS EXPRESS DISCUSSION OF IT IN CLASS OR NOT—AND THE LECTURES/DISCUSSIONS.*

Questions about all material are always welcome and should form the lion's share of our experience in this course.

GRADED ASSIGNMENTS: *Students are responsible for turning in assignments on-time. All assignments may be found on Canvas and may be accessed through either the "Modules" link, the "Assignments" link, or the "Syllabus" link. Work for each module will be turned in on Canvas. PAY CAREFUL ATTENTION TO DUE DATES AND TIMES. Most Worksheets are due by the end of the week (Sunday at 11:59pm) they are assigned. Assignments will be closed thereafter. Students are strongly encouraged to read ahead and to turn in their Worksheet Assignments before the Sunday deadline.*

MODULE 1: NATURAL LAW THEORY

Aug 23 M **Introduction to Jurisprudence**
Review Syllabus
Lon Fuller, "The Problem of the Grudge Informer" (handout on Canvas)

→ WORKSHEET 1 DUE SUNDAY, August 29 @ 11:59pm

Aug 30 M ***Classical Natural Law Theory***
Read: Introductions (pp. 13-20; 21-27)
Read: Aquinas, "Treatise on Law" selections (pp. 27-41)

→ WORKSHEET 2 DUE SUNDAY, September 12 @ 11:59pm

Sep 13 M ***Contemporary Natural Law Theory***
Read: Finnis, from *Natural Law and Natural Rights* (pp. 41-61)

→ WORKSHEET 3 DUE SUNDAY, September 19 @ 11:59pm

MODULE 2: POSITIVISM OLD AND NEW

Sep 20 M ***Legal Positivism***
Read: Introduction (pp. 63-68)
Read: Austin, from *The Province of Jurisprudence Determined* (pp. 68-84)

→ WORKSHEET 4 DUE SUNDAY, September 26 @ 11:59pm

Sep 27 M ***Reclaiming Legal Positivism***
Read: Hart, "Positivism and the Separation of Law and Morals" (pp. 84-106)

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→ **WORKSHEET 5 DUE SUNDAY, October 3 @ 11:59pm**

Oct 4 M *Reclaiming Legal Positivism*
Read: Hart, “Law as the Union of Primary and Secondary Rules” (pp. 106-118)
Read: Hart, from “The Foundations of a Legal System” (pp. 118-127)

→ **MIDTERM ESSAY DUE SUNDAY, October 10 @ 11:59pm**

Oct 11 M **MIDTERM ESSAY PRESENTATIONS AND DISCUSSION**

MODULE 3: DWORKIN v. HART

→ **WORKSHEET 6 DUE SUNDAY, October 17 @ 11:59pm**

Oct 18 W *Integrity Theory*
Read: Introduction (pp. 129-133)
Read: Dworkin, “The Model of Rules I” (pp. 133-155)

→ **WORKSHEET 7 DUE SUNDAY, October 24 @ 11:59pm**

Oct 25 M *Integrity Theory*
Read: Dworkin, “Integrity in Law” (pp. 155-170)

→ **WORKSHEET 8 DUE SUNDAY, October 31 @ 11:59pm**

Nov 1 M *Legal Realism*
Read: Introduction (pp. 173-177)
Read: Holmes, “The Path of the Law” (pp. 177-182)
Read: Jerome Frank Readings (on Canvas)

→ **WORKSHEET 9 DUE SUNDAY, November 7 @ 11:59pm**

MODULE 4: NEEDFUL CRITIQUES

Nov 8 M *Feminist Jurisprudence and Intersectionality*
Read: Introduction (pp. 211-218)
Read: Smith, “Feminist Jurisprudence and the Nature of Law” (p. 218-227)
Read: MacKinnon, “Toward a Feminist Jurisprudence” (pp. 227-236)
Read: Delgado, “About Your Masthead...” (pp. 236-246)
Read: Crenshaw, “Demarginalizing the Intersection of Race and Sex” (on Canvas)

→ **WORKSHEET 10 DUE SUNDAY, November 14 @ 11:59pm**

Nov 15 M *Intersectionality and Critical Race Theory*
Read: Crenshaw, “Demarginalizing the Intersection of Race and Sex” (on Canvas)
Read: Delgado, “Rodrigo’s Reconsideration...” (on Canvas)
QUIZ #3 DUE at the beginning of class

Nov 25-30 THANKSGIVING HOLIDAY (no class)

→ WORKSHEET 11 DUE MONDAY, November 29 @ 5:59pm

Nov 29 M ***Conclusion and Review***

Read: *Queen v. Dudley and Stephens*, L.R. 14 Q.B.D. 273 (1884) (on Canvas)

Read: The Trial of Sam Lovejoy (on Canvas)

Dec 6 M FINAL ESSAY DUE on Canvas @ 6pm.

Notes on Classroom Etiquette or THE RULES

--Class starts promptly. Be here on time. After the first week or so of the semester, you WILL be denied entry if you arrive more than 5 minutes late. Late arrival is disruptive to the classroom experience of your classmates and, perhaps even your professor. In any case, it works against the mission of the classroom. To this end, I suggest you not drive from class to class—gas is too expensive and we could all use the exercise.

--The format of the class is lecture and conversation. The classroom is a safe place to ask questions. But they should be questions that derive from work with and in the material and NOT because you did not do the assignment.

--You will not read newspapers, textbooks, or study for other classes while in this class. If you do so, you will be asked to leave—and in no uncertain terms.

--Turn all cellphones and other electronic devices off (or set to vibrate) for the duration of class. You are not to accept calls or engage in text messaging during class. If you do so, I will confiscate your device. If you are awaiting a call or message of extreme importance, I suggest you skip class.

--You may use a laptop, but only for the purpose of taking notes. If I catch you surfing the web, playing games, or engaged in some other activity not related to the work of the class, you will lose your laptop privileges.

--You are responsible for material missed due to absence. I suggest you exchange notes with other responsible students in any case, but particularly if you have to miss. I am happy to answer questions about this material, but will not rehearse my lectures or our class discussions.

--Some semesters, life gets in the way. Should you have one of these semesters, I am more than happy to talk to you about what to do. But if the trauma is too great, I strongly suggest you drop one or all of your courses. Your education is vitally important, but there are things that outrank even education sometimes—and *you have to make that call when it is necessary*. I cannot grade you on how well or poorly you deal with your life at given moments. Your grades reflect your performance in class—not how well you are dealing with other things. I wish all of us a semester in which these things aren't issues.

IMPORTANT: This syllabus reflects the minimum requirements of our professional relationship over the course of this semester. By staying in this class, you signify that you understand the contents of this syllabus and you agree to the terms and conditions stated herein.