

Positive Political Theory of Law

Political Science 104L

Center 220

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Summer 2009
Social Science Building 367
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Class Meets: Monday, Wednesday, 2:00 p.m. – 4:50 p.m.
Office Hours: Tuesday, 3:00 – 4:00 p.m.

My Mission as a Teacher:

“To enable my students to learn joyfully, think clearly, read carefully, and write well.”

Abstract

While we begin with ancient conceptions about the fundamental nature of law, we will end by looking at the most recent thinking as influenced by new work in neuroscience. We still wrestle with questions of justice and responsibility that Moses, Hammurabi, and Lao Tzu faced as we move into an age of brain imaging and genome mapping.

Books

H.L.A Hart The Concept of Law second edition (1997)(\$38.00)

Ronald Dworkin, Law's Empire, reprint edition (1988)(\$24.95)

Course Reader Available at:

University Readers

www.universityreaders.com

(800) 200-3908

Topics and Readings

Meeting 1.0 (Monday, June 29th) – Introduction

Lon Fuller's “The Case of the Speluncean Explorers” (27 pages)

Martin Luther King, Jr., “Letter from a Birmingham Jail.” (12 pages)

Meeting 1.5 (Monday, June 29th) – Divine and Natural Law

Moses, Exodus 19-24 (8 pages)

L.W. King “Code of Hammurabi” (10 pages)

Wing-Tsit Chan “The Natural Way of Lao Tzu” (15 pages)

Benjamin Hoff “The Tao of Pooh” (24 pages)

Meeting 2.0 (Wednesday, July 1st) –Legal Formalism

Ernest Weinrib (1988) “Legal Formalism: On the Immanent Rationality of Law” (49 pages)

Meeting 2.5 (Wednesday, July 1st) – Legal Realism

Karl Llewellyn “A Realistic Jurisprudence – The Next Step” (24 pages)

Meeting 3.0 (Monday, July 6th) –
H.L.A. Hart The Concept of Law Preface, Chapter 1 (15 pages)

Meeting 3.5 (Monday, July 6th) –
H.L.A. Hart The Concept of Law, Chapter V (12 pages)

Meeting 4.0 (Wednesday, July 8th) –
H.L.A. Hart The Concept of Law, Chapter VI (17 pages)

Meeting 4.5 (Wednesday, July 8th) –
First Paper Due (5 pages)
H.L.A. Hart The Concept of Law, Chapter VII (23 pages)

Meeting 5.0 (Monday, July 13th) –
Ronald Dworkin Law's Empire, Chapter 1 (44 pages)

Meeting 5.5 (Monday, July 13th) –
Ronald Dworkin Law's Empire, Chapter 2 (42 pages)

Meeting 6.0 (Wednesday, July 15th) –
Ronald Dworkin Law's Empire, Chapter 3 (27 pages)

Meeting 6.5 (Wednesday, July 15th) –
Ronald Dworkin Law's Empire, Chapter 4 (37 pages)

Meeting 7.0 (Monday, July 20th) –
H.L.A. Hart The Concept of Law, Postscript (34 pages)

Meeting 7.5 (Monday, July 20th) – Discussion and Midterm review

Meeting 8.0 (Wednesday, July 22nd) – **Midterm**

Jurisprudence and the Brain

Meeting 8.5 (Wednesday, July 22nd) –
Daniel Dennett Freedom Evolves, Chapters 1 & 2 (62 pages)
Jeffery Rosen, “The Brain on the Stand” NY Times (14 pages)

Meeting 9.0 (Monday, July 27th) –
Micheal Gazzaniga and Megan Steven, “Free Will in the 21st Century” (19 pages)
Jonathan Fugelsang and Keven Dunbar “A cognitive neuroscience framework for the understanding of causal reasoning and the law” (6 pages)

Meeting 9.5 (Monday, July 27th) –
Morris Hoffman “The neuroeconomic path of the law” (10 pages)
Joshua Greene and Jonathan Cohen “For the law, neuroscience changes nothing and everything” (11 pages)
Stephen Morse, “New Neuroscience, Old Problems” (41 pages)

Meeting 10.0 (Wednesday, July 29th) –

Patricia Smith Churchland “A review of The Ethical Brain by Michael Gazzaniga” (7 pages)

Patricia Smith Churchland “Moral Decision-Making and the Brain” (27 pages)

Meeting 10.5 (Wednesday, July 29th) –

Second Paper Due (10 pages)

Oliver Goodenough and Kristin Prehn “A neuroscientific approach to normative judgment in law and justice” (18 pages)

Oliver Goodenough “Responsibility and punishment: whose mind? A response” (5 pages)

Final Exam (Friday, July 31st) – 3:00 p.m. – 5:59 p.m.

Assignments & Grading

40% -- Two Papers (5 pages (13%) and 10 pages (27%))

25% -- Midterm Exam

25% -- Final Exam

10% -- Five Quizzes (you can drop one)

D Regurgitation – Like an infant, you are good at spitting it back out.

C Basic – Applying the facts and skills "as is."

B Intermediate – Applying the facts and skills to new problems or situations.

A Advanced – Asking counter-factual questions, modifying or changing operative principles to illustrate command of the core-principles in challenging contexts.

Grade Changes and Extensions

All requests for grade changes must be made formally to your teaching assistant. Requests must be typed, double spaced, and include precise textual citations that support your contention. A review of any grade may result in either a higher or a lower grade. Extensions on assignments and make-up exams will only be granted in cases of documented illness or family medical emergencies. Please contact your teaching assistant as soon as possible if you need to request one.

Late Policy

Papers are due at the **beginning** of class. 2% bonus if an assignment is turned in more than 25 hours early. A 5% penalty applies for any papers turned in after the beginning of class, with a 5% additional penalty for each day an assignment is turned in late. No papers will be accepted electronically. A paper is not submitted until I have a physical copy of it.

Plagiarism

Fidelity to ones' own ideas and the ideas of others dictates that proper citation be made for any work or idea of another. If I believe that you have violated this principle, I will change from being your advocate to being your prosecutor and I will seek the strongest penalty consistent with university policy.