Political Science 217: Law, Politics and Society
Spring 2012
Mondays & Wednesdays 4:30 – 5:45pm
Ingraham Room 120

Instructor: Carlton Henson
Office Hours: Wednesdays and Thursdays, 3:00 – 4:15 pm in 413 North Hall
(and by appointment)
Email: chenson@wisc.edu

TA: Kyle Nakatsuji
Office Hours: Monday, 3:15 – 4:15pm & Thursday, 2:15 – 3:15 pm in North Hall Room 122 (and by appointment)
Email: nakatsuji@wisc.edu

Course Description:
This class is an introduction to the legal process by examining how law intersects with politics and society. The course has three broad and overlapping sections. First, we will begin by discussing theoretical concepts of law and justice, legal reasoning, and the functions of law and rule of law. Next, we will review the development and character of legal institutions in the U.S. Finally, we will look at particular issues in law and how law is portrayed in American culture.

Course Format:
This course will incorporate lectures and class discussions. A particular focus of this class will be improving critical thinking and effective communication, two skills that are vital in the field of law. Students will be expected to attend class regularly and to take an active part in class discussions. Please come to class having read the materials and prepared to discuss them.

Written Assignments:
• There will be two midterm exams, which consist of identification and essay questions. The dates of these exams are February 29 and March 28. These exams will be cumulative and will cover all course material to date.

• The final exam will be held Monday, May 14 from 5:00 pm – 7:00 pm. The final exam is cumulative: it will cover all course material.
• There will also be one paper, 1500-1800 words in length and due April 25. Papers must be submitted electronically as a Word document to the appropriate dropbox under Learn@UW, with your name in the document title. Papers are due at noon sharp on April 25. I recommend submitting your paper no later than 10 minutes before the deadline, in case something goes wrong.

Late papers will not be accepted. Failure to turn in the paper when due will result in a zero for that assignment.

You will be asked to take a position concerning an issue we have covered and marshal evidence and arguments to support your position. With permission, you may also choose a topic outside of our class discussions for these papers. More details about these papers will be given in class.

• There will be many random short quizzes at the beginning of class to test your reading comprehension of the materials assigned for that class, the material covered in the previous class, and current events. I will drop your lowest two scores from these quizzes in calculating your total quiz score at the end of the semester.

Readings:

Required readings are posted on the course’s webpage at https://learnuw.wisc.edu. You may either print or read these texts on-line. They consist of book chapters, articles from newspapers and academic journals, and excerpts of court decisions. There is no textbook, and there will be no course reader.

Additionally, you are required to scan the front page of the New York Times every weekday for articles related to this course. This includes pretty much everything. Most days, there are only 5-7 articles on the front page, and they may be accessed for free:


The Times is available to UW students for about $2.50 per week for M-F delivery and complete online access.

Class Participation:

Class participation and participation in section are important parts of this class. Speaking to and in front of others is a critical skill for almost any job you can imagine. If you decide you do not want to speak in front of others, then you are deciding that you will never want a leadership or management position. This class is a low risk forum for practicing and improving this skill. You will be graded on both the quality and quantity of your contributions.
A few important notes:

- I do not take attendance, and you do not need to notify me if you will miss a class because of illness or unavoidable schedule conflict. Note, however, that class participation and random quizzes constitute 25% of your total grade.

- Exam and paper dates are set. Mark your calendars now. There will be no make-up exams unless you can provide proper documentation for a genuine emergency or illness. Do not miss an exam and assume that you can make it up.

- Students needing special accommodations to ensure full participation in this course should contact me within the first two weeks of the semester. You also may contact the McBurney Center regarding questions about campus policies and services.

- As the semester progresses, I may modify the syllabus, and if so, will announce any changes in class. You are responsible for knowing what happens in class whether you attend or not.

- Please put “PS 217” in the subject line of any email to insure a reasonably prompt response. For emails with this subject reference and received between 8 am and 8 pm, M-F, I will normally respond within 24 hours.

- You must wait 48 hours after an exam or paper has been returned before complaining about your grade. Contact your TA first; I will not respond to any concerns that have not been presented to your TA. You should prepare a 1-2 page memo outlining why you deserve a higher grade, and this must be based on your own work rather than comparison to others.

- Academic integrity is critical to maintaining fair and knowledge based learning at UW Madison. Academic dishonesty is a serious violation; it undermines the bonds of trust and honesty between members of our academic community, degrades the value of your degree and defrauds those who may eventually depend upon your knowledge and integrity.

Any instance of academic misconduct, including plagiarism, will be taken seriously. Misconduct will result in notification to the Dean of Students. Please consult http://students.wisc.edu/saja/misconduct/UWS14.html for the details about what constitutes academic misconduct. If you see other students cheating, please tell me or your TA.

**I take a dim view of cheating and will seek the most severe sanctions against anyone who cheats in this class.**

On each exam and paper, you will be required to execute this pledge:
On my honor, I have neither given nor received any unauthorized help on this (exam, quiz, paper).

**Grading:**

<table>
<thead>
<tr>
<th>Component</th>
<th>Weight</th>
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<tbody>
<tr>
<td>Class Participation (including section)</td>
<td>15%</td>
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<tr>
<td>Random quizzes</td>
<td>10%</td>
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<tr>
<td>Midterm Exam 1 (October 3)</td>
<td>15%</td>
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<tr>
<td>Midterm Exam 2 (November 16)</td>
<td>15%</td>
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<tr>
<td>Paper (due November 30 at 5:00pm)</td>
<td>15%</td>
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<tr>
<td>Final Exam</td>
<td>30%</td>
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Class participation includes participation in section, and you will be graded on both the quantity and quality of your contribution. The random quizzes and exams will be curved. Your final grade will depend on your overall average and where you stand in the class.

**Course Schedule**

1. **Monday, January 23:** Introduction – Review of Syllabus

2. **Wednesday, January 25:** What is Justice?
   - Tetlock and Mitchell (1993) Liberal and Conservative Approaches to Justice (pp 234-250)

3. **Monday, January 30:** What Is Law and What is Its Relation to Justice?
   - HLA Hart's Conception of Law, pp.20-28
   - Simmonds_2007 Ideality of Law, pp. 10-36
   - Optional:
     - Barkan, excerpts from Law and Society, pp. 21-30, and 56-60.
     - Stone, excerpts from Policy Paradox, pp. 108-130, and 284-304.

4. **Wednesday, February 1:** What Is Rule of Law?
   - Fuller, Morality of Law.
   - Belton, Competing Definitions of the Rule of Law.
• **FILM:** “UNDP South Sudan: Rule of law” available at http://www.youtube.com/watch?v=iEKIkcHOV78
• **VIDEO:** “The Need for the Global Rule of Law” available at http://bigthink.com/ideas/5277

  **Optional:**
  - Fuller_1949 Case of Speluncean Explorers
  - Mattei & Nader, Plunder and the Rule of Law, pp. 10-34

5. **Monday, February 6: Functions of Law**

- Durkheim on Politics & the State, pp. 45-50 (Giddens. Ed. 1986)
- **FILM:** “A Meditation on the Speed Limit” available at http://www.youtube.com/watch?v=1B-OxoZmVIU

6. **Wednesday, February 8: Dysfunctions of Law**

- Vago, pp. 22-23.
- Barkan, excerpts from Law and Society, pp. 4-7, 209-236.
- Howard, excerpt from Death of Common Sense, pp. 3-22.


  **Optional:**
  - Zinn, A Kind of Revolution
  - Why Was the Constitution Necessary?
  - Roche_1961 Founding Fathers-A Reform Caucus in Action

8. **Wednesday, February 15 – Constitutional Structure**
• Peterson, The Three Branches of Government: Powers, Relationships, and Checks, pp. 91-120.

Optional:
• Federalist Nos. 10, 51 & 78
  http://www.constitution.org/fed/federa10.htm
• Ritchie, What Kind of Government Did the Constitution Create?
• Stone, excerpts from Policy Paradox, pp. 354-375.

9. Monday, February 20: Legislature as Lawmaking Institution

Article 1, US Constitution (with commentary)
• Samuels, from “Legislatures and Lawmaking,” pp.212-217.

Optional:
• Quirk, The Legislative Branch: Assessing the Partisan Congress, pp. 121-156.

10. Wednesday, February 22: Executive Lawmaking- Administrative Law

• Rodriguez, Administrative Law,
• Rose-Ackerman, Law and Regulation.
• “FDA’s Standards for High Quality Foods,” June 18, 2007.

11. Monday, February 27: Administrative Lawmaking: Agency Capture

• Bagley, Protecting the Public Interest, Understanding the Threat of Agency Capture, August 3, 2010.
• Harry Markopolos
  On 60 Minutes
  http://www.youtube.com/watch?v=PG8sIAsT-bg
  http://www.youtube.com/watch?v=iR1ctcYXx7c&NR=1
  on the Daily Show:
  http://www.thedailyshow.com/watch/mon-march-8-2010/harry-markopolos
Optional:
Matt Taibbi, Wall Street’s Big Win, Rolling Stone Magazine

12. Wednesday, February 29: *FIRST MIDTERM*

13. Monday, March 5: Judicial Institutions

- Article 3, US Constitution (with commentary)
- Baum, excerpts from American Courts: Process and Policy, pp. 4-10; 20-51.

14. Wednesday, March 7: Judicial Review – The Least Dangerous Branch

- Bickell, The Least Dangerous Branch
- Excerpts from Marbury v Madison

15. Monday, March 12: Judge-made Law

- Baum, Lawrence, excerpts from American Courts, pp. 10-16.

16. Wednesday, March 14: How Are Judges Selected?

• The Economist - Wanted: better judgment, fewer crowd-pleasers and lickspittles (Nov. 2008)

Optional
• “Wisconsin Judgment Day, the Sequel,” FactCheck.org, March 21, 2008

17. Monday, March 19: How Issues Reach the Supreme Court- Lottery or Not?

• Deciding to Decide, Perry (1994)
• U.S. Supreme Court Rules on certiorari

18. Wednesday, March 21 Law & Economics – A Tentative Introduction


Optional

19. Monday, March 26: Law-Enforcement: Police Discretion and its Abuse

• Walker, “Police Discretion,” in Taming the System, pp. 21-25.
• “Are Pretextual Stops by the Police Constitutional?” in Taking Sides: Clashing Views on Controversial Legal Issues, pp. 112-127.

20. Wednesday, March 28: SECOND MIDTERM

SPRING BREAK

21. Monday, April 9: Rights and Liberties

• US Bill of Rights.
• Stone, excerpts from Policy Paradox, pp. 324-353
22. Wednesday, April 11: Rights Revolutions
• McCann, Litigation and Legal Mobilization.
• Epp, Law as an Instrument of Social Reform.

23. Monday, April 16: Law and Globalization
• Garth, The Globalization of the Law.
• Mattei & Nader, International Imperial Law.
• Globalization of Human Rights

24. Wednesday, April 18: The Evolution of Civil Rights
• Van Delinder (2004) Brown at 50, (pp. 1-14)
• Excerpts from The Hollow Hope

25. Monday, April 23: Affirmative Action
• Petition for Certiorari in Fisher v. Texas

26. Wednesday, April 25: PAPER IS DUE
Public Expression of Religion
• Excerpts from Chemerinsky, Cases and Materials on Constitutional Law

27. Monday, April 30: National security, Foreign Policy, Statements of Interest, Political Questions and Guantanamo Bay

28. Wednesday, May 2: Law & Literature – Shakespeare on Law & Lawyers; Have attitudes changed?
• No Required Readings
  
  **Optional**
  • Excerpts from The Merchant of Venice, Henry VI, and Measure for Measure

29. Monday, May 7: The Legal Profession
• Abel, Legal Profession.
• Kritzer, The Justice Broker.
• Mann, Defending White-Collar Crime.
• Blumberg, The Practice of Law as a Confidence Game.

Optional:
• Macaulay, Lawyers and Consumer Protection Laws.

30. Wednesday, May 9: TBD

No Readings