Political Science 217: Law, Politics and Society
Fall 2013
Mondays & Wednesdays 4:30 – 5:45 pm
Ingraham Room 120

Instructor: Carlton Henson - chenson@wisc.edu
Office Hrs: Mo. & Wd., 3:00 pm – 4:00 pm North Hall, Rm. 201A
TA: Jacob Colling - jcolling@wisc.edu
Office Hrs: Ts. & Th. 11:00 am – noon, main level in Education Bldg. (Crossroads Café)

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 with theoretical concepts of law and justice. Next, we will review the structure and development of legal institutions in the U.S. Finally, using pending and recent cases from the Supreme Court, we will look at particular issues in law and the connection between law and social change.

Motivating questions:
What is the relationship between law and justice?
What are the extent and limits of individual rights? Who should decide these questions?
Can/should courts and law bring about social change?

Grading:
- There will be two midterm exams (each worth 25% of your final grade) that will consist of identification and essay questions. The dates of these exams are **Wednesday, October 9** and **Monday, November 11**. The exams will be cumulative and will cover all course material to date. The midterm exams will consist of 6-10 short answer questions and 3 longer essay questions. Old exams are posted on the course website.
- The final exam, worth 35% of your final grade, will be held on **Monday December 16 from 7:25 pm – 9:25 pm** (room TBD). The final exam is
cumulative: it will cover all course material. The final exam will consist of 6-10 short answer questions and 4 longer essay questions.

• There will be bonus points available on each exam as follows:

  o Verbatim writing of the Preamble to the Constitution: worth 5 points on 1st midterm, 3 points on 2d midterm, and 1 point on final. You can thus collect up to 9 bonus points in total for knowing the Preamble.

  o Correct chronological listing of U.S. Presidents with first name, last name and years in office: worth 5 points on any exam- you may only earn these 5 points once.

• The remaining 15% of your grade will be based on your participation in discussion section and will be determined by your TA.

Readings:

The required textbooks for the class are:

  Anthony Walsh & Craig Hemmings, *Law, Justice & Society, A Sociolegal Introduction*, Oxford University Press (2d ed., 2011)(“LJS”). There is also a 3d, 2013 edition of this book which you may use instead, but it is much more expensive.


The Walsh and Hemmings book was used in this course the last two semesters, so there should plenty of used copies available in Madison. The Sandel and Bowen books are also widely available used. *We will use only about a third or less of the Sandel and Bowen books, so buying them used is a good idea.*

All additional required readings (mostly articles and book chapters) are posted on the course’s webpage at [https://learnuw.wisc.edu](https://learnuw.wisc.edu).

Finally, you are required to read articles from the front pages of the New York Times and the Wall Street Journal that we discuss in class and are posted on the course site. Once an article is discussed in class and posted, it becomes fair game for the midterms or the final. You will get more from class discussions if you read these articles before class, but you will not be graded or otherwise responsible for these articles until after we have discussed them in class.
Class Participation:

Participation in class and section are important parts of this course. If you are looking for a course where you can passively sit and listen to 75 minutes of lecture, this course is not for you.

Speaking to and in front of others is a critical skill. If you decide you never want to speak in front of others, then you are deciding that you will never want a leadership, teaching or management position. This class is a low risk forum for practicing and improving this skill. Luckily, you must speak in this class because you will be called on during the semester.

You will be graded on your participation in discussion section, as determined by your TA.

You will not be graded on your class participation.

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. Wait, that means that if I never show up for class, I cannot be called on in class. Yes, that is true, but your exam scores will likely suffer.

- Class begins promptly at 4:30 pm. Do not come to class late unless you have prior permission from me.

- Exam 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.

- Students needing special accommodations to ensure full participation in this course should talk to me during the first two weeks of the semester. You also may contact the McBurney Center regarding questions about campus policies and services - http://www.mcburney.wisc.edu/.

- 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.

- You must wait 48 hours after an exam has been returned before complaining about your grade. After 48 hours you may contact your TA first via email; 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. Upon re-evaluation, your grade may go down or up (or remain the same).

- 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. UW policies on this are here: http://students.wisc.edu/saja/misconduct/UWS14.html.

If you see other students cheating, please tell your TA or me. This is in your interest because you are part of this academic community and because all grades in this course are curved.

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 not cheated on this exam.”

Course Schedule and Required Readings
(Readings should be read before the class for which they are listed)

1. Wednesday, September 4: What is Law & Society?
   
   Optional: Dyson, “How to Dispel Your Illusions,” N.Y. Rev. of Books,

   
   Sandel – Chapter 2 (pp 31-57)
   “The Ones Who Walk Away from Omelas,” pp. 1-7, Ursula Le Guin

3. Wednesday, September 11: What is Justice? Part II - Rawls
   
   Sandel – Chapter 6 (pp 140-167)

   
   LJS Chapter 1 – All

   Fuller, “Eight Ways to Fail to Make Law,” (from Morality of Law, 1964)
5. Wednesday, September 18: How to Think Like a Lawyer


What is “Changing Clothes?” Cert. Petition in Sandifer v U.S. Steel, pp. 1-28

6:00 pm - Optional lecture:

“Is Law School for Me? (Probably Not.)”

6. Monday, September 23: The Relationship of Justice & Law

LJS Chapter 2 – All

7. Wednesday, September 25: Origins of the U.S. Constitution

Miracle in Philadelphia – Author’s Preface & Chapters 1 – 4 (pp 1- 54)

8. Monday, September 30: Constitutional Structure – Compromises

Miracle in Philadelphia – Chapters 8, 9, 10, 15 & 16 (pp. 91-128; 185-205)

(optional) - Federalist Papers Nos. 1, 10, 51 & 78

9. Wednesday, October 2: Making Law

LJS Chapter 3 - All


10. Monday, October 7: Judicial Review


| Chemerinsky (2009), excerpts from Marbury v. Madison (pp. 1-10), from Constitutional Law, 3d Edition, Aspen Publishing
| (McCutcheon v. FEC oral arguments are October 7; we will discuss this case on December 2. Regretfully, recorded oral arguments are not be available on the Supreme Court website until the Friday after arguments – in this case, Oct. 11).

11. Wednesday, October 9: FIRST MIDTERM
12. Monday, October 14: Federal and State Courts

   LJS – Chapter 4

| (Schuette v. BAMN oral arguments are October 15).

13. Wednesday, October 16: Crime and Criminal Law

   LJS – Chapter 5

14. Monday, October 21: Criminal Procedure

   LJS – Chapter 6

   Scotusblog: “Dog-Sniffing Cases Made Simple”

   Scotusblog: “The Court Takes on DNA Screening”

15. Wednesday, October 23: Civil and Administrative Law

   LJS – Chapter 7

16. Monday, October 28: Juvenile Justice

   LJS – Chapter 8

17. Wednesday, October 30: Law and Social Control

   LJS – Chapter 9

18. Monday, November 4: The Limits of Social Control

   LJS – Chapter 10

19. Wednesday, November 6: Law and Social Change

   LJS – Chapter 11

20. Monday, November 11: SECOND MIDTERM

21. Wednesday, November 13: Women and the Law

   LJS – Chapter 12
22. Monday, November 18: Racial Minorities and the Law

LJS – Chapter 13


Petition for Certiorari in Schuette, pp 1 - 25,

Sandel Chapter 7, pp. 167 – 183,

24. Monday, November 25: Class Choice – Options Are:

1. Abortion wars continuing...
   Cline v. Oklahoma Coalition for Reproductive Justice (S. Ct. pending)
   McCullen v. Coakley (S. Ct. pending)

2. Limits on Presidential power in matters of national security – Nasser Al-Aulaqi v. Panetta (D.D.C., awaiting trial date)

3. Freedom from Religion (Establishment Clause) - Town of Greece v. Galloway (S. Ct. pending)

25. Wednesday, November 27: NO CLASS


D.D.C. Opinion and SCOTUS blog contributions by Chemerinsky, Collins & Scover, Corn-Revere, Gora, Levitt, Piety and Winkler (all at Learn@UW)

Big Sky, Big Money - Frontline/ PBS October 30, 2012:

http://video.pbs.org/video/2298009584

27. Wednesday, December 4: Law in Foreign Lands

LJS – Chapter 14
28. Monday, December 9: Order without Law; Legal Pluralism

Milgrom, North & Weingast (1990), “The Role of Institutions in the Revival of Trade: The Law Merchant, Private Judges, and Champaign Fairs,” (pp.1-21: *skip the math; find the story and the conclusions*)


29. Wednesday, December 11: Order without Law: International Law & Human Rights


Final Exam is Monday, Dec. 16: 7:25 pm – 9:25 pm

(Room TBA)