LAW, POLITICS, & SOCIETY
[ Legal St 217 / Poli Sci 217 ]
Mon/Wed, 4:00-5:15pm in Ingraham 120
(Spring 2015)

Kristen D. Fox
North Hall 411
kfox7@wisc.edu
Office Hours: Mon & Wed from 2:30-3:30pm
(also available by appointment)

INTRODUCTION & OBJECTIVES
The study of law involves much more than a cold reading of statutes and constitutions: it requires consideration of the complex interplay between various actors within the political system and of the competing norms and values of modern society. This course adopts a primarily institutional approach, examining law and its impact on politics and society by focusing on the three branches of government: the legislature, which makes laws; the executive, which enforces laws; and the judiciary, which interprets and adjudicates questions of law. Of the key institutions, particular attention will be paid to the role of the courts and of the police.

This practical approach will familiarize you with the building blocks of the American legal system, allowing you to consider both foundational issues and contemporary applications. Context is key. For example, what does it mean to refer to justice, equality, and liberty in American society, not only in a strictly legal sense, but also in regard to the normative societal implications of particular policies and laws? Although we will largely operate within the context of the American legal system and society, we will sometimes look to other socio-legal systems for contrast and comparison.

As with nearly any course involving politics, some of the topics we will discuss may evoke strong feelings and opinions. Please remain respectful while discussing materials in this course.

TEXTBOOKS
The following text is required and is available for purchase at the bookstore and online:

The following text is recommended (you may find it helpful for your case analysis project), but it is not required:

Selected additional readings will be made available through Learn@UW and/or email.

GRADES
When applicable, due dates are listed in the Course Schedule (below). Unless instructed otherwise, assignments are due by the start of class, and grades will be reduced by 10% for each day past the due date.

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<th>Percentage</th>
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<tr>
<td>5%</td>
<td>Case Briefs</td>
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<td>10%</td>
<td>Participation (incl. case presentation)</td>
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<td>Quizzes &amp; Response Papers</td>
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<td>20%</td>
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<td>Paper</td>
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<td>Final Exam</td>
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Case Briefs: While case briefing is a skill that will prove absolutely essential for those of you bound for law school, its value as a learning tool and study aid for social scientists shouldn't be overlooked. Early in the course, we will discuss how to brief cases (e.g., what relevant information should be included), and I will provide you with examples of good case briefs before you are asked to prepare your own. I will announce the case to be briefed at least one week in advance. Both a hard copy and an emailed or uploaded copy (.doc or .docx only) are due by the start of class on the due date.

Participation: While you are strongly encouraged to ask questions and join class discussions, I understand that not everyone is comfortable speaking in class; as such, emailing questions/comments or coming by during office hours will be considered in setting your overall participation grade, as will attendance. Furthermore, all students (in groups of two to four) will present to the class a brief analysis of a case or issue that has recently been or is currently being considered by the U.S. Supreme Court. Details on this assignment will be provided early in the semester.
Quizzes & Response Papers: There will be several quizzes throughout the semester, sometimes as we begin class (usually touching upon the reading[s] assigned for the week) and sometimes at the end of class (usually covering the material that we just discussed). The quizzes will be short and direct; my intent is not to trip you up with tricky or obscure questions, but rather to make sure that you're picking up on some of the more important take-aways from class. 1-2 page response papers will be assigned at least one class in advance and require that you analyze an issue or respond to a question relevant to the week's readings.

Exams: We will have three exams for the course – two midterm exams worth 20% each and one final exam worth 25%. The exams will be a mix of multiple choice, short answers, hypotheticals, and essays. The final exam will be cumulative, though there will be a greater emphasis on material covered after the midterm. Please note the dates of the exams now, as makeup exams will only be allowed in the case of a documented emergency.

Paper: You will have one 6-8 page paper due on April 22nd. Details of the assignment will be provided early in the semester to give you time to choose and discuss a suitable topic.

Classroom Policies

Phones & Laptops
Please silence your phones before class begins. Please note that texting is extremely distracting and rude – and it isn't a fraction as discreet as you may think that it is. If you need to take a call or tend to other personal business on your phone, please step outside to minimize the distraction to your classmates.

As a general rule, laptops should not be used for note taking in class. This is not just because note taking by hand has practically become a lost art (and might even make you smarter! see http://tinyurl.com/pn7h5m3) – the temptation to read "just this one" email or share how awesome this class is in a Facebook status is too great. Additionally, even if you are able to resist, your neighbor may not find it so easy to refrain from checking out what's new on Instagram or reddit, and that becomes just as distracting as when it's your own laptop.

There may be occasions that laptops may be used for specific parts of the class (e.g., if there is a particularly long .pdf that we will be discussing); those will be announced before we meet. This should give you the opportunity to bring your laptop if you otherwise wouldn't (and to perhaps save a few trees by not printing certain readings!).

Attendance & Preparedness
I do not intend to "talk at you" for the entire course – class will be a mix of lecture, discussion, and activities. For this to work, it is important that you come to class prepared. At minimum, when asked you should be able to give a brief synopsis of the text, case, chapter, or article assigned, including what question(s) they address and the result(s) reached. Case briefing is an excellent way to prepare for class (though not required unless explicitly assigned). Please bring your book every week in which there is assigned reading.

Because we will discuss information beyond what is covered in the textbook and assigned readings, attendance is critical. Being present has three clear advantages: it will help you learn and process the significant amount of material that we will cover every week, it will provide an opportunity to ask questions (which helps both you and your classmates), and it will facilitate meaningful classroom discussions. As such, you are expected to attend class each week; however, I understand that events and illness occasionally make attendance difficult or impossible. If you must miss class, please email me in advance (or as soon after as possible) to let me know.

You are always encouraged to come to class, email, or drop by during office hours with questions and responses to the material. If this happens via email or during office hours, I may wish to share the question/comment with the class, so please let me know if you would prefer to remain anonymous, and I will omit any identifying information.

Accommodations
If you require classroom or testing accommodations or otherwise have a disability that affects your learning, please contact the McBurney Disability Resource Center at 702 W. Johnson St (Suite 2104), (608)263-2741, or mcburney@studentlife.wisc.edu. Please notify me of your McBurney status (or intent to seek McBurney status) within the first two weeks to discuss support and accommodations. I am happy to work with you to ensure that you are able to fully participate in the classroom experience.

Academic Integrity & Plagiarism
All students will be strictly held to the University's academic integrity standards. Students engaging in academic misconduct (including plagiarism) will be reported to the Dean of Students and may receive a zero on the assignment and/or an F for the course. When in doubt, cite. Please visit http://writing.wisc.edu/Handbook/QPA_plagiarism.html for more information. If you have questions or concerns, please speak with me during office hours.
COURSE SCHEDULE

Readings may be slightly modified as the semester progresses. If you must miss class, it is your responsibility to get class notes (from a classmate or by coming to office hours) and the next week's topics (from a classmate or by emailing me).

BACKGROUND & BASICS

January 21: Course Introduction; Syllabus

January 26: Institutional Players
The Adversarial System

READINGS:
1. Articles I-III and Amendments I-XIV of the Constitution
2. Federalist #78
3. Text pp1-31
4. INS v. Chadha

January 28: Civil and Criminal
The Basics (Hierarchy of Laws, The Judiciary, and Judicial Review)
Gatekeeping I: Jurisdiction

READINGS:
1. Marbury v. Madison
2. McCulloch v. Maryland

February 2: Gatekeeping II: Justiciability

READINGS:
2. Flast v. Cohen 7. DeFunis v. Odegaard
6. City of LA v. Lyons

POLICING

February 4: Styles of Policing
Police Discretion
Limits of the Law

READINGS:
2. DeShaney v. Winnebago

February 9: GUEST PRESENTATION: Policing a Free Society

February 11: Transparency
Legitimacy
Overlap of Civil & Criminal Duties

READINGS:
1. Posted Online

February 16: Justice & Fairness: Expectations and Reality
Race, Class, & the Call for Reform
Review / Questions

READINGS:
1. Posted Online (7 short articles, 2 short videos)

February 18: EXAM 1
ATTORNEYS & THE TRIAL COURT

February 23: On Litigation
The Players

READINGS:
1. Galanter (A World Without Trials?)
2. Garry (A Nation of Adversaries)
3. The Trial in American Life, pp29-74
4. Ordinary Injustice, pp1-9

February 25: The Process
Prosecutorial Discretion

READINGS:
1. Posted Online

March 2: The Practice of Law
Fees
The Mental Element
Alternative Dispute Resolution

March 4: Punishment
Transparency & Legitimacy

READINGS:
1. Posted Online

March 9: Protections or Exceptions?: Justice & Fairness Discussion I

READINGS:
1. Galanter (Why the Haves Come Out Ahead)

March 11: Protections or Exceptions?: Justice & Fairness Discussion II

READINGS:
1. Posted Online

March 16: GUEST PRESENTATION: The Practice of Law

APPELLATE COURTS

March 18: Introduction
Interpretive Arguments
Interpretive Frameworks

READINGS:
1. Text pp121-131

March 23: Models of Judicial Decision-Making
Levels of Scrutiny
Review / Questions

READINGS:
1. Segal & Spaeth (Chapters 2 and 3)
2. Epstein & Knight (Chapters 1 and 2)

March 25: EXAM 2

[ Spring Break ]
APPELLATE COURTS (CONTINUED)

April 6: How Do They Get to the Court?
Nominations & Appointments
Removals & Retirements

READINGS:
1. Nemachek
2. Text pp32-88
3. Text pp101-104

April 8: Term Limits?
The Players Behind the Doors
How Do We Get to the Court?
Caseload

READINGS:
1. Calabresi & Lindgren excerpt
2. Text pp131-164

April 13: Agenda Setting: Rules, Process, & Strategy
Deciding Cases
Writing Opinions

READINGS:
1. Text pp187-225
2. Text pp239-289

April 15: About Judicial Opinions
Protection or Exceptions?: Justice & Fairness Discussion
(Civil Rights and Civil Liberties I: "States' Rights" Issues)

READINGS:
1. Text pp290-310
2. Barron v. Baltimore
3. Dred Scott v. Sandford
4. [Review] The Fourteenth Amendment

April 20: (Civil Rights and Civil Liberties II: The First Amendment – Speech & Religion)

READINGS:
1. Excerpts from Free Speech Cases
2. Excerpts from Free Exercise Clause Cases
3. Excerpts from Establishment Clause Cases

April 22: (Civil Rights and Civil Liberties III: Race & Class)

READINGS:
1. Brown v. Board of Education (I and II)
2. Swann v. Charlotte-Mecklenburg Board of Edu
3. San Antonio ISD v. Rodriguez
4. Washington v. Davis

Paper Due

April 27: (Civil Rights and Civil Liberties IV: Sexual Orientation)

READINGS:
1. Lawrence v. Texas
2. U.S. v. Windsor
3. Same-Sex Marriage & The First Amendment
**THE SUPREME COURT & EXTRAJUDICIAL ACTORS**

**April 29:** The Court's Docket and Policy-Making Agenda
Compliance

**READINGS:**
1. Text pp226-238
2. The Hollow Hope (Chapter 2)
3. Text pp321-370

**May 4:** The States
The Legislature
The Executive

**READINGS:** 1. Cases TBA

**May 6:** Interest Groups
The Media
The Public
Final Thoughts

**READINGS:**
1. Text pp311-321
2. Articles & Videos Posted Online

**May 10:** **FINAL EXAM (2:45-4:45pm) (location TBA)**
"There can be no justice so long as laws are absolute. Even life itself is an exercise in exceptions."
- Capt. Jean-Luc Picard

"I know of no method to secure the repeal of bad or obnoxious laws so effective as their stringent execution."
- Ulysses S. Grant, First Inaugural Address

"There are two things wrong with almost all legal writing. One is its style. The other is its content."
- Fred Rodell

"May you have a lawsuit in which you know you are right."
- Spanish Gypsy curse

"If we cannot secure all our rights, let us secure what we can."
- Thomas Jefferson, Letter to James Madison

"I'm often asked why there is such a great variation among sentences imposed by Texas judges. I can only quote the Texas judge who was asked why a killer sometimes doesn't even get indicted and a cattle thief can get ten years. The judge answered, "A lot of fellows ought to be shot, but we don't have any cows that need stealin'."
- Pearcy Foreman

King of the Hill

Lawyer: So, are you suffering from nausea? Blackouts? Vomiting?
Lucky: No more so than usual.
Lawyer: I didn't hear that. I just heard nausea, blackouts, and vomiting.

Dale: My name is Shackelford. Rusty Shackelford. I refuse to speak without my attorney present.
[stands, removes hat] I am Mr. Shackelford's attorney, Rusty Shackelford. My client pleads insanity.

Lawyer: So, you ate the warning label and choked on it?
Jimmy: Yeah, and now I want to sue someone for a lot of money!
Lawyer: You're the boss, Jimmy.

Hank: You can't just pick and choose which laws to follow. Sure, I'd like to tape a baseball game without the express written consent of major league baseball, but that's just not the way it works.

The Office

Michael: Hey. Schneider, real quick: what do you call a buttload of lawyers driving off a cliff?
Schneider: A good start. And I think it's busload.
Michael: Yeah, a bunch of rich lawyers took the bus. [To Jan:] Where did you find this guy?

Michael: So you are the lawyer, Mr. O'Malley? I know a lot of lawyer jokes.
O'Malley: I love lawyer jokes.
Michael: Well, it's probably because you don't get 'em.

Michael: Yes, I was the first one out. And yes, I've heard "women and children first." But we do not employ children. We are not a sweat shop. Thankfully. And, uhh, women are equal in the workplace by law. So, I let them out first, I have a lawsuit on my hands.

Dwight: Okay, I'm going to have to search your car. Give me your keys.
Ryan: I am not giving you my keys.
Dwight: Don't make me do this the hard way.
Ryan: What's the hard way?
Dwight: I go down to the police station, on my lunch break. I tell a police officer – I know several – what I suspect you may have in your car. He requests a hearing from a judge and obtains a search warrant. Once he has said warrant, he will drive over here and make you give him the keys to your car, and you will have to obey him.
Ryan: Yeah, let's do it that way.

The Walking Dead

Dale: "This is a young man's life, and it is worth more than a five-minute conversation...Is this what it's come to? We kill someone because we can't decide what else to do with him?...If we do this, we're saying there is no hope. Rule of law is dead. There is no civilization."

Tyreese: What I'm picking up is, murder is okay in this place now.