

# **Law and Society PSC 411Z**

Spring 2006

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Office Hours: Tuesday, 9-10:30; Wednesday, 10:00-11:30; or by appointment

## **Course Description:**

This course is designed to examine law as social and political phenomena. The law is at once both process and aspiration; compelling force and socializing agent; liberation and oppression. Needless to say the law radically affects our everyday lives by structuring society and how we interact with it. This course is designed to identify and understand the nuances of the law in American society.

The course is designed to be an upper level seminar. Seminars are dependent upon robust class discussion and engaged analysis of course material. Readings for the course will be voluminous and challenging. Students will need to not only read the assignment but consider how the reading (1) connects with other readings, (2) challenges your and society's conception of the law and the American legal system, and (3) achieves its stated purposes. Writing assignments will further tap your ability to analyze course readings, challenge their conclusions, and articulate your responses and rejoinders.

Given that this is a 400-level course, a fundamental understanding of law and legal processes is assumed. (Courses such as PSC 330, PSC 332, or similar class should suffice to provide such a background.)

All students are expected to complete the readings and be prepared to discuss the material in class.

## **Accommodations:**

Students with disabilities are requested to inform the instructor of their needs at the beginning of the course. Accommodations for disabilities will be happily granted, however, all such guidelines will follow the requirements of university-wide policy (see <http://www.unlv.edu/studentlife/disability/>).

As a general rule, a student missing a class assignment because of observance of a religious holiday shall have the opportunity to make up missed work. Students must provide notice of anticipated absences by the last day of late registration (January 23) to be assured of this opportunity.

Also, students who represent UNLV at any official extracurricular activity shall have the opportunity to make up assignments, but the student must provide official written notification no less than one week prior to the missed class(es).

Missing deadlines or exams due to illness requires documentation from a doctor. Please refer to University policy if you have any questions or contact me directly.

## **Academic Integrity:**

All students are expected to conduct themselves and their academic work consistent with the standards outlined by the Office of Student Conduct, particularly as they relate to academic integrity. For more information, visit the office website at <http://www.unlv.edu/studentlife/judicial/student.html>.

Incidents of plagiarism and academic misconduct will result in an automatic failure for the course and pursuit of academic discipline. (Rational, risk-adverse students will recognize that it is much better to take a low grade for one assignment than to risk failure and expulsion.) If you are uncertain as to what constitutes plagiarism, the UNLV Writing Center provides helpful guidelines and suggestions (see [http://www.unlv.edu/Writing\\_Center/Avoiding%20Plagiarism.htm](http://www.unlv.edu/Writing_Center/Avoiding%20Plagiarism.htm)).

## **Course Requirements:**

Response Paper 1	15%
Response Paper 2	15%
Research Prospectus	10%
Research Paper	30%
Quizzes	20%
Participation	10%

*Response Papers*—Throughout the semester, you will be responsible for two response papers, approximately four to five pages in length each, that respond to the readings assigned for that day.

The purpose of the paper is to critically exam the arguments being made by the author. PLEASE NOTE: PROVIDING A SUMMARY IS NEITHER NECESSARY NOR SUFFICIENT. PROVIDING ANYTHING BEYOND A ONE PARAGRAPH SUMMARY OF EACH ARGUMENT IS TOO MUCH. Questions to answer include: What are the strengths and weaknesses of the argument? Does the evidence presented by the author support the argument? What is rebuttal to the argument being made? Why does or doesn't the rebuttal make for a more compelling argument?

Papers must be double-spaced, using 12-point Times New Roman font. Long quotations must be off-set and single spaced.

In an effort to save trees, papers must be submitted electronically in either Word or Wordperfect. (I prefer Word but if you must use the antiquated and generally inferior Wordperfect, I'll deal with it.) Papers are due *prior* to class the day they are due. You must email the paper to me. Late papers (anytime after class) receive a one letter grade reduction per day. Technological problems do not excuse late papers. Please save your documents as your last name and assignment (e.g. Hays—Response Paper 1.doc). If you are technologically challenged, start practicing early or come see me.

*Prospectus*—You must provide a 2-3 page description of the chief features of your research paper. The prospectus should answer the following questions: What is the question you will attempt to answer? (The question will be pre-approved by Hays.) Why is the question important? What data or information will you rely upon to answer the question? Does this data or information exist (and do you have access to it)?

*Research Paper*—The research paper should be approximately 12-15 pages. The paper should attempt to answer questions and issues related to the course. A minimum of four to five external sources must be used in the course of the paper.

*Pop Quizzes*—Mancur Olsen, a “famous” economist and political scientist from the University of Maryland (Go Terps!), discovered that large groups fail to act even when it is in their collective benefit to act. He dubbed this conundrum the collective action problem. One way to overcome the collective action problem is to provide incentives and/or disincentives for inaction. Since careful and complete reading is a necessary component for a high grade, the course includes pop quizzes to provide you with an incentive (disincentive?) to read. Pop quizzes will cover the assigned reading *for the day the quiz is given*.

## **Course Outline:**

January 19—Preliminaries

January 26—Understanding “Law in Society” and Law’s Impact on Society

- Friedman, “Law, Layers and Popular Culture” *Law and Society*, 20-21
- Macaulay, “Images of Law in Everyday Life.” *Law and Society*, 505-507
- Gibbs, *Deterrence Theory and Research*, 417-422
- Tyler, “Why People Obey the Law.” *Law and Society*, 474-498
- Milgram, “Obedience to Authority” *Law and Society*, 498-505

February 2—Dispute Resolution

- Macaulay, “Non-Contractual Relations in Business”
- Ross, “Settle Out of Court: The Social Process of Insurance Claims Adjustment”, 104-111

- Mnookin and Kornhauser “Bargaining in the Shadow of the Law” in *Law and Society*, 111-118

February 9—Law as Popular Culture and the Mythology of the Heroic Lawyer

- Watch: *To Kill a Mocking Bird*
- Asimow, “When Lawyers Were Heroes” *University of San Francisco Law Review* (1996) 1131-38. (Available on Lexis-Nexis)
- Grant, “Lawyers as Superheros” *University of San Francisco Law Review* (1996) 1111-1121. (Available on Lexis-Nexis)

February 16—The “Haves” in Court

- Grossman, “Do the Haves Still Come Out Ahead?” *Law and Society Review* (1999), 803-10. (Available on Lexis-Nexis)
- Edelman, “When the ‘Haves’ Hold Court: Speculations on the Organizational Internalization of Law.” *Law and Society Review* (1999), 941-985. (Available on Lexis-Nexis)

February 23—The “Have Nots” in Court—Legal Leveraging

- McCann, *Rights at Work*, Chapters 1-5

March 2—When the Courts Speak, Who Listens? Civil Rights as a Case Study

- Rosenberg, *The Hollow Hope*: Chapters 1-5 (skim Chapters 4 & 5)

March 9—When Courts Speak, Who Listens? Abortion as a Case Study

- Rosenberg, *The Hollow Hope*: Chapter 6-9
- Reagan, “About to Meet Her Maker: Women, Doctors, Dying Declarations, and the State’s Investigation of Abortion” *Journal of American History* (1991), 1240-1264. (Available on JSTOR)

March 16—SPRING BREAK

March 23—Law and Criminal (In)Justice—A View from the Street

- Cole, *No Equal Justice*, 1-62
- Goldstein, “Police Discretion Not to Invoke the Criminal Process” in *Law and Society*, 59-63.
- Simon, “Homicide: A Year on the Killing Streets” in *Law and Society*, 564-572

March 30—Law and Criminal (In)Justice—A View from the Courts

- Cole, *No Equal Justice*, 101-157
- Blumberg, “The Practice of Law as Confidence Game” in *Law and Society*, 63-79

April 6—Law and Gender—Equality, Difference, or Oppression

- Whitman, “Feminist Jurisprudence” *Feminist Studies* (1991), 493-507 (Available on JSTOR)
- Frug, “A Postmodern Feminist Legal Manifesto” *Harvard Law Review* (1992), 1045-1075. (Available on Lexis-Nexis)

April 13—Law and War—War’s Implications for Civil Rights

- *Korematsu v. United States*, 323 U.S. 214 (1944)
- Graber, “Counter-Stories: Maintaining and Expanding Civil Liberties in Wartime”
- Tushnet, “Defending *Korematsu*? Reflections on Civil Liberties in Wartime”

April 20—Law and War—Rule of Law and Executive Power

- *Youngstown Sheet & Tube v. Sawyer*, 343 U.S. 579 (1952)
- *The Prize Cases*, 67 U.S. 635 (1862)
- War Powers Resolution (1973)
- Iraq Resolution (2003)
- *Ex Parte Quirin*, 317 U.S. 1 (1942)
- *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004)

April 27—Law and War—Domestic Security and the Rule of Law

- Posner, “Our Domestic Intelligence Crisis” *The Washington Post* (Handout)
- Solove, “Judge Posner’s Troubling Call for Massive Surveillance” from *Balkinization* (Jack Balkin’s legal blog)

May 4—Research Work Week