

JURISPRUDENCE
COURSE INFORMATION AND SYLLABUS

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Class Meeting Times and Location

Tuesday, Thursday 3-4:15pm. ALS 403.

Office Hours

Tuesday, Wednesday: 11am-12:00pm [Subject to change based on student schedules]

Also, please drop by my office anytime – I am very often there and enjoy informal discussions. I am also very happy to make appointments via email to meet at other times.

Required Texts

- Chaim Perelman, *The Realm of Rhetoric* (William Kluback trans., 1982).
- Frederick Schauer & Walter Sinnott-Armstrong, *The Philosophy of Law: Classic and Contemporary Reading with Commentary* (1996).

GOALS

This course is designed to serve as a general introduction to jurisprudence – the philosophy of law. During the semester, we will consider the philosophical nature of law, legal reasoning and argument, legal rights, as well as justice and equality under the law. For theory, we will read a mix of classic and modern jurisprudential texts. Applying theory to practice, we will also engage in a series of case studies examining major Supreme Court majority and dissenting opinions that turn on deeper jurisprudential debates. Ultimately, we will explore the philosophical implications of understanding law as a rhetorical practice. By the end of the semester, you will have a basic familiarity with the vocabulary and concepts used in contemporary jurisprudential debates as well as a nuanced understanding of the persuasive techniques and rhetorical forms used in legal argumentation.

POLICIES

- 1. Attendance** – Regular class attendance is mandatory. Students who have more than five absences will not be eligible to complete the course. Please note that under this policy, there are no “excused” or “unexcused” absences (with the exception for religious holidays). Attendance is established by signing the class attendance sheet. A student who is more than 5 minutes late may stay for class but may not sign the attendance sheet and be counted as present for that day.
- 2. Preparation** – This class relies on everyone arriving fully prepared to participate in the day’s discussion. At the most basic level, this means completing the assigned reading. Prior to each class, I will distribute study questions that focus on particular aspects of the texts we are reading. I expect you to carefully consider these questions as they will usually form the basis of my Socratic method. Some of our readings will be challenging and I certainly do not expect that you will grasp every nuance. When I call on you to answer a question, getting answers “wrong” is entirely forgivable – and often there is no single “right” answer at all. On the other hand, class discussion is impoverished if we are not all familiar with the day’s texts and therefore “on the same page.” As a general rule, failing to read the day’s assignment is not forgivable.
- 3. Professionalism** – Learning cannot effectively take place in an environment that is unprofessional or uncivil. To that end, I expect that you will observe basic professional courtesies such as arriving on time and turning off your cell phone. Given our subject matter on focus on rhetoric, it is my hope that we can have lively class debates where all students feel comfortable participating and expressing their opinions. Respect for your colleagues is vital to fostering a healthy debate environment. At all times, remain mindful of the diversity of perspectives and experiences in our classroom and be respectful as you articulate your arguments. We need not agree on everything, but we do need to disagree professionally.

Note: Please contact me if something related to our class debates or discussions makes you feel uncomfortable or otherwise interferes with your ability to learn. I will make every effort to address any issues raised.
- 4. Computers + TWEN** – The use of laptops to take notes is permitted in our class. However, laptops must not be used to browse the Internet, check email, Tweet, and etc. I thus reserve the right to ban laptops if the temptations of the Internet cause disruptions or distractions. Meanwhile, each of you must enroll in the TWEN site for this course, which is available through Westlaw. Please regularly monitor the TWEN site for course updates, handouts. You will also be encouraged to post to the TWEN discussion boards.
- 5. Methods of Evaluation** –The final grade will be based on the following: Midterm (20%); Participation in class and in structured TWEN discussion forums (15%); Final (65%).

PLEASE NOTE: THIS SYLLABUS IS SUBJECT TO CHANGE. I EXPECT TO POST A REVISED SYLLABUS BY JANUARY 5, 2016

SYLLABUS – WEEKS 1-15

Please find below the reading assignments for the first 7 weeks of the semester. I reserve the right to modify and change these assignments if circumstances so require. For readings, please note that **Rhetoric** refers to the Perelman text, **Philosophy** refers to the Schauer & Sinnott-Armstrong text and **HO** means that at Handout will be made available on TWEN.

z	Unit I – What is Law?	Reading
1/12/16 (Tu) [1]	Introduction to Theories of Law	Philosophy: pp. 1-11 HO: Declaration of Independence
1/14/16 (Th) [2]	Natural Law	Philosophy pp. 12-27 HO: <i>This American Life (Weblinks)</i>
Week 2		
1/19/16 (Tu) [3]	Introduction to Rhetoric - <i>Logos, Ethos, Pathos</i>	Rhetoric: Chs. 1-2, 12-13 (pp. 1-20; 138-52)
1/21/16 (Th) [4]	Legal Positivism	Philosophy: pp. 29-49
Week 3		
1/26/16 (Tu) [5]	Legal Realism and Critical Legal Studies	Philosophy: pp. 50-69
1/28/16 (Th) [6]	Law as History, Law as Integrity	Philosophy: pp. 70-74; 90-100 HO: Berman, <i>The Historical Foundations of Law</i>

Week 4		
2/2/16 (Tu) [7]	<i>Case Studies</i> -Fugitive Slave Laws -Right to Economic Liberty	Philosophy: pp. 107-115 HO: <i>Lochner v. New York</i> (edit)
Unit II – What is Legal Reasoning?		
2/4/16 (Th) [8]	Premises in Law and Argument – Part I	HO: Dewey, <i>Logical Method and the Law</i>
Week 5		
2/9/16 (Tu) [9]	Premises in Law and Argument – Part II	Rhetoric: Chs. 3-4 (21-40) HO: MLK, “I Have a Dream”
2/11/16 (Th) [10]	Case study - Rhetoric and premises	HO: TBA
Week 6		
2/16/16 (Tu) [11]	<i>Contemporary Issues in Jurisprudence</i> - Student Choice	HO: TBA
2/18/16 (Th) [12]	Arguments based on Example, Analogy and Metaphor	Philosophy: pp. 163-165 Rhetoric: Chs. 9-10 (106-125)
Week 7		
2/23/16 (Tu) [13]	<i>Case Study:</i> Analogy in Current Law	HO: TBA
2/25/15 (Th)	** MIDTERM EXAM **	** Covers Material from Weeks 1-7 **
Week 8		
Unit III – The Problem of Precedent		
3/1/16 (Tu)	<u>Guest Speaker</u>	HO: TBA
3/3/16 (Th) [15]	Reasoning from Precedent	Philosophy: pp. 166-171 HO: <i>Coronado Oil v. Barnette</i>

Week 9		
3/8/16 (Tu) [16]	Case Studies in Stare Decisis	HO: <i>Payne v. Tennessee</i> (edit) HO: <i>Citizens United v. FEC</i> (edit)
Unit IV – The Structure and Content of Rights		
3/10/16 (Th) [17]	Structure of Rights	Philosophy: pp. 279-89; 295-304
***	*** SPRING BREAK ***	*** No School 3/14 – 3/20 ***
Week 10		
3/22/16 (Tu) [18]	Right to Free Speech	Philosophy: pp. 354-61; 366-72
3/24/16 (Th) [19]	Case Studies in Free Speech	HO: <i>Abrams v. US</i> (edit) HO: <i>Snyder v. Phelps</i> (edit)
Week 11		
3/29/16 (Tu) [20]	Right to Privacy	Philosophy: pp. 403-412 pp. 416-421
3/31/16 (Th) [21]	Case Studies in Privacy	HO: <i>Olmstead v. United States</i> (edit) HO: <i>Lawrence v. Texas</i> (edit)
Week 12		
4/5/16 (Tu) [22]	<i>Contemporary Issues in Jurisprudence II</i> - Student Choice	HO: TBA
Unit V – Justice and Equality		
4/7/16 (Th) [23]	What Is Justice?	Philosophy: pp. 493-504
Week 13		
4/12/16 (Tu) [24]	Case Study in Equality	HO: TBA
4/14/16 (Th) [25]	Debates over Capital Punishment	Philosophy: pp. 731-60
Week 14		
4/19/16 (Tu) [26]	Case Study	HO: TBA
4/21/16 (Th) [27]	Law and The Realm of Rhetoric	Rhetoric: Ch. 14 (153-62)