**What is Law?**

**LAW-AD 101 (4 credits)**Professor Serene Richards  
*Spring 2020*

[sjr419@nyu.edu](mailto:john.coughlin@nyu.edu)

Class Time:  Tuesday and Thursday, 2:40 to 3:55 pm; Room, WA-003

Office Hours: Tuesday and Thursday, 4 to 5 pm; and by appointment; Office, A5-183

**Course Description**

This course poses the fundamental questions: “What is law?”; “What is a legal system?” and “What is the rule of law?” Appreciating that law reflects different cultural and historical facts, the course employs a comparative methodology in order to explore the fundamental questions from the perspective of various legal traditions.  The course examines the topics of natural law, legal positivism, interpretivism, legal realism, justice, human rights, critical legal studies, feminist jurisprudence, critical race theory, and post-modernist jurisprudence.

**Learning Outcomes**

Identify fundamental issues about the nature of law, the notion of a legal system, and conceptions of the rule of law from the perspective of differing cultural contexts and legal traditions.

Understand the basics of comparative legal methodology.

Discuss the similarities and the differences between the various legal traditions and the cultural underpinnings that give rise to law.

Formulate an overview of each of the discrete topics discussed in the course in light of the legal traditions from which they are considered.

Critically Assess the understandings of law, justice, and fundamental fairness reflected in the various legal traditions.

**Textbook and Methodology**

The text for the course is Lloyd’s Introduction to Jurisprudence (9th ed., M. D. A. Freeman ed., Sweet & Maxwell 2014), which consists of the editor’s texts and extracts from a wide range of theorists.  The reading schedule that follows refers to text and extract pages from Lloyd’s Introduction to Jurisprudence.  In addition, these materials are supplemented by jurisprudence and case law from a variety of legal traditions.  These supplemental materials are available at the NYU Website under NYU Classes, Resources: What is Law. A copy of this syllabus is also available at this website.

The course employs a comparative legal methodology that juxtaposes, compares, and contrasts the approaches to law in diverse legal traditions.  Consistent with comparative scholarship, the course’s readings and class discussions draw upon jurisprudential, philosophical, historical, sociological, economic, psychological, anthropological, and religious insights.  All of these approaches are brought to bear in response to the course’s central question: “What is law?”.

**Reading Schedule**

Students are required to read all of the Cases listed below starting with *Gabriel Shumba* (for class on Feb. 6)*,* and proceeding, etc.*,* corresponding to each of the topics below.  The readings from the Extracts are primary sources for the lectures, and the Extracts are critical to writing the two required reflection papers.  The readings from the Text are suggested and will serve to reinforce class presentations and discussions. *The schedule below is subject to adjustment based on factors such as the nature and length of class discussion, etc*.

**Week 1**

Tues. 28 January 2020

Introduction: Fundamental Questions and Comparative Legal Method

Text, pp. 1-20

Thurs. 30 January 2020

Meaning of Law

Case of Speluncean Explorers

**Week 2**

Tues. 4 February 2020

Natural Law (I)

Text, pp. 75-124 – Extracts, pp. 124-194

Thurs. 6 February 2020

Natural Law (II)

Case – *Gabriel Shumba v. Rep. of Zimbabwe* (Human Rights)

**Week 3**

Tues. 11 February 2020

Legal Positivism (Classical)

Text, pp. 195-217 – Extracts, pp. 124-194

Thurs. 13 February 2020

Legal Positivism

Case – *Nachhittar Kaur & Ors v. Kehar Singh & Ors* (Property)

**Week 4**

Tues. 18 February 2020

Legal Positivism (Analytic)

Text, pp. 311-348 – Extracts, pp. 348-480

Thurs. 20 February 2020

Case – *Arab-Malaysian Finance v. Taman Ihsan Jaya & Ors* (Commercial)

**Week 5**

Tues. 25 February 2020

Theories of Justice

Text, pp. 481-527 – Extracts, pp. 527-592

Thurs. 27 February 2020

Case – *Soobramoney v. Minister of Health*, and *South Africa v Grootboom* (Housing & Healthcare)

**\*\*\*\*\* Assignment due – Paper 1 – ‘Natural Law and Legal Positivism’ \*\*\*\***

**Week 6**

Tues. 3 March 2020

Justice Miscarried

Blaise Pascal, (1960) “Justice, Force.”

Douzinas & Warrington, (1994), *Justice Miscarried* (Sussex: Harvester Wheatsheaf), pp. 132-151 – 222-32 – 236-41.

Thurs. 5 March 2020

Interpretivism (I)

Text, pp. 593-610 – Extracts, pp. 610-700

**Week 7**

Tues. 10 March 2020

Interpretivism (II)

Case – *Riggs v Palmer* (Probate / Inheritance)

Thurs. 12 March 2020

**In class exam**

**Break**

**Week 1**

Tues. 31 March 2020

Sociological Analysis of Law

Text, pp. 701-746 – Extracts, pp. 746-821

Thurs. 2 April 2020

Case – *Maqbool Fida Husain v. Raj Kumar Pandey* (Obscenity)

**Week 2**

Tues. 7 April 2020

Legal Realism

Text, pp. 825-840 – Extracts, pp. 840-867

Thurs. 9 April 2020

Case – *House of Lords, Ex parte Pinochet* (International Law)

**Week 3**

Tues. 14 April 2020

Marxist Analysis

Text, pp. 953-989 – Extracts, pp. 989-1016

Thurs. 16 April 2020

Case – *Shenzhen Siruiman Fine Chemicals v. Shenzhen Water Supply, An Invention Patent Infringement Dispute, Guiding Case No. 20* (Intellectual Property)

**Week 4**

Tues. 21 April 2020

Critical Legal Studies

Text, pp. 1017-1032 – Extracts, pp. 1033-1078

Thurs. 23 April 2020

Case – *Korematsu v. United States* (Detention)

**\*\*\*\*\* Assignment due – Paper 2 – ‘Theories of Justice, Interpretivism, Sociological Analysis and Realism’ \*\*\*\***

**Week 5**

Tues. 28 April 2020

Feminist Jurisprudence

Text, pp. 1079-1093 – Extracts, pp. 1094-1187

Thurs. 30 April 2020

Case – *Danial Latifi & Anr v. Union of India* (Divorce)

**Week 6**

Tues. 5 May 2020

Critical Race Theory

Text, pp. 1257-1262 – Extracts, pp. 1262-1286

Thurs. 7 May 2020

Case – *Hadijatou Mani Koraou v. Rep. of Niger*

**Week 7**

Tues. 12 May 2020

Conclusion: Human Rights – Philosophical and Transcendent Perspectives

Text, pp. 1287-1308 – Extracts, pp.1309-1375

Thurs. 14 May 2020

**In Class Exam**

**Evaluation**

**1. Writing Assignments.**  Students are required to write two 6-page papers on the following topics:

Paper 1--“Natural Law and Legal Positivism”, Due Feb. 27th;

Paper 2--“Theories of Justice, Interpretivism, Sociological Analysis, and Realism”, Due April 23rd;

The purpose of the papers is to afford the opportunity for reflection upon and integration of the course material.  No reading outside of the assigned materials is necessary; the Extracts and Cases are critical to the reflection papers.  Each paper counts for 20% of the final course grade. *This will be discussed more fully in class.* Late papers will receive a grade reduction.

**2. Class Participation.**  Active class participation in the discussion of the reading is expected.  Each student will sign up to lead the class discussion about one of the cases listed above in the reading schedule.  The case discussion starts with a presentation of the facts of the case and then an explanation of the relevant law. *The method and expectations about case discussion will be discussed more fully in class.* Class participation counts for 15% of the final course grade.  It includes participation in class discussions and the presentation of a Case as described below.

**Case Presentation.** Students will sign up in groups in order to present one of the cases mentioned at the end of each section above. The goal of the case presentation is to: (a) clearly state the facts of the case; (b) highlight and explain the pertinent law; (c) lead the class discussion of the case; and (d) relate the particular case to the relevant topic from the lectures and readings.

Written feedback will be provided to each student about class participation at the mid-term of the course as well as following the case presentation.

**3. Examinations.**  There will be a mid-term written examination on **March 12th**which counts for 20% of the final course grade, and a final written examination on **May 14th** which counts for 25 % of the final course grade.

**Academic Integrity Policy**

NYUAD expects its students to adhere to the highest possible standards of scholarship and academic conduct. In this regard, please see: <https://students.nyuad.nyu.edu/campus-life/student-policies/community-standards-policies/academic-integrity/>