

Nature, Functions, and Limits of the Law Politics 256

Class Location: Cole Library 410

Class Times: 9-11 a.m. and 1 p.m. to 2 p.m. (unless noted below on the daily schedule)

Office Location: Old Sem, second floor

Office Hours: 11:00 a.m. to 12:00 p.m. daily and by appointment

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Students in this course will study the means and ends of social ordering through law. That is, the class will explore what law is and is not and what it is capable of doing within the social context. The course will consist of the following units: 1) law as an instrument for remedying grievances; 2) law as an instrument for defining and punishing crimes; 3) law as an administrative-regulatory instrument; 4) law as a facilitator of private arrangements between people; and 5) law as a way of promoting safety and human rights. The course materials will consist largely of photocopied original materials. Students are expected to attend class regularly and be well prepared to participate in class discussions. There will be three written papers (and two rewrites). Participation, which will include several in-class presentations, will be graded.

Individual interests are often in tension with each other; they are also often in opposition to a common or societal goal/value. This course seeks to introduce you to the law's capacity to mediate between these individual interests as well as the law's attempts at furthering the common good, often at the expense of individual interests. The law is a powerful instrument for encouraging people to work together. However, it is not capable of resolving every problem or achieving every goal. How does the law resolve disputes? How does it maximize welfare and wealth? How is it structured? Who decides what we mean by "law" and how it functions? Who decides what the societal interest is or whether it trumps what an individual wishes to do?

In this class, you will advance your own attainment of the following Cornell College educational priorities:

1. Knowledge: integrate and apply knowledge from a focused area of study as well as a broad general education which includes disciplinary and interdisciplinary perspectives in the arts, humanities, sciences, and social sciences.
2. Inquiry: respond to the complexities of contemporary and enduring problems using information literacy tools, research skills, creative thinking, and analysis.
3. Reasoning: evaluate evidence; interpret data; and use logical, mathematical, and statistical problem-solving tools.
4. Communication: speak and write clearly, listen and read actively, and engage with others in productive dialogue.

5. Intercultural Literacy: connect with diverse ideas and with people whose experiences differ from their own and that may be separated from them by time, space, or culture.
6. Ethical Behavior: recognize personal, academic, and professional standards and act with integrity.
7. Citizenship: collaborate with others and contribute in their communities and the larger world.

Required Texts: Photocopied Materials, for sale at the College Bookstore

Course Requirements:

It is expected that you attend class regularly and be fully prepared to participate in our class discussions every day. Classes are designed to be a genuine interaction. You should not hesitate to speak.

Your final course grade will be determined according to the following allocation:

1. Class Participation (25%). This entails regular and thoughtful participation in class discussions as well as assigned in-class presentations. Any unexcused absences from class may affect your final grade for participation by up to one increment.
2. Papers (75%). You will write three papers and multiple rewrites. (See the tentative syllabus below for the schedule of the written assignments.)

First Assignment:	5%	(Nov. 28, 2018)
Second Assignment:	First Rewrite-	10% (Dec. 5, 2018)
	Final (Second) Rewrite-	20% (Dec. 10 2018)
Final Assignment:	First Submission-	15% (Dec. 14, 2018)
	Final Rewrite-	25% (Dec. 19, 2018)

Written papers are to be your original work. Our Writing Studio is available to help you with your written work. You can learn more about the Writing Studio at: <http://www.cornellcollege.edu/library/ctl/ws/index.shtml>. You will be penalized up to one grade increment if papers are turned in late.

Honesty in Academic Work: As in all other courses at Cornell, you must adhere to standards of honesty in this class. Cornell College expects all members of the Cornell community to act with academic integrity. An important aspect of academic integrity is respecting the work of others. A student is expected to explicitly acknowledge ideas, claims, observations, or data of others, unless generally known. When a piece of work is submitted for credit, a student is asserting that the submission is their work unless there is a citation of a specific source. If there is no appropriate acknowledgement of sources, whether intended or not, this may constitute a violation of the College's requirement for honesty in academic work and may be treated as a case of academic dishonesty. The

procedures regarding how the College deals with cases of academic dishonesty appear in The Catalogue, under the heading “Academic Honesty.” If you ever have questions about this, you should come see me.

Accommodations: Cornell Colleges makes reasonable accommodations for persons with disabilities. Students should notify the Coordinator of Academic Support and Advising and their course instructor of any disability related accommodations within the first three days of the term for which the accommodations are required, due to the fast pace of the block format. For more information on the documentation required to establish the need for accommodations and the process of requesting the accommodations, see: <https://www.cornellcollege.edu/academic-support-and-advising/disabilities/index.shtml>.

I am always available to discuss academic challenges you may be facing, regardless of whether you have a documented learning disability.

Course Overview:

I. Introduction

- A. First Amendment/Methods of Resolution
- B. Introduction to the Legal Structure
- C. Legal Process and Jurisprudence

II. Law as a Grievance-Remedial Instrument

- A. What is the Grievance-Remedial Instrument?
- B. Remedies
- C. Structures and Processes
- D. Limitations- The Duty to Rescue
- E. Roles of Different Parties

III. Law as a Penal-Corrective Instrument

- A. Theories of the Law
- B. Penal-Corrective Techniques
- C. Structures and Processes
- D. Coercive Power- The Death Penalty

IV. Law as an Administrative-Regulatory Instrument

- A. The fundamentals of the administrative system
- B. Administrative-Regulatory Techniques

V. Law as an Instrument for Facilitating Private Arrangements

- A. Fundamentals of Contract Law

B. Remedies

VI. Law to Promote Equality

- A. Fundamentals of Equal Protection
- B. Affirmative Action
- C. Freedom of Religious Expression
- D. Political Intervention of Majority Opinions
- E. Protection of Personal Liberties (if time permits)

Detailed Syllabus

I. Introduction

Monday, November 26

First Amendment Discussion and Hypothetical
Introduction to the American Legal System

Hand out Written Assignment #1

Tuesday, November 27

CONTINUED: First Amendment Discussion and Hypothetical AND
Introduction to the American Legal System

Pages 1-23 of Law: Its Nature, Functions, and Limits
Village of Skokie v. National Socialist Party of America

II. Law as a Grievance-Remedial Instrument

Wednesday, November 28

CONTINUED: Pages 1-23 of Law: Its Nature, Functions, and Limits
Village of Skokie v. National Socialist Party of America

Law as a Grievance-Remedial Instrument
Pages 30-31 of Law: Its Nature, Functions, and Limits
Introduction

Remedies within Grievance-Remedial Law
Pages 33-40 of Law: Its Nature, Functions, and Limits
Butterfield v. Forester
Davies v Mann

Due: Written Assignment #1

Hand out Written Assignment #2

Thursday, November 29

CONTINUED: Law as a Grievance-Remedial Instrument
Pages 30-31 of Law: Its Nature, Functions, and Limits
Introduction

CONTINUED: Remedies within Grievance-Remedial Law
Pages 33-40 of Law: Its Nature, Functions, and Limits
Butterfield v. Forester
Davies v Mann

Friday, November 30

Role of Private Citizens and their Lawyers
Pages 138-147 of Law: Its Nature, Functions, and Limits

Guest Lecture: Peter R. Jarvis, Partner, Holland & Knight via Skype

Hand out Final Written Assignment

Monday, December 3

Guest Lecture: Judge Aleta Trauger '68, U. S. District Court, Middle District of Tennessee

Guest Lecture: Retired Chief Judge David R. Hansen, United States Court of Appeals for the Eighth Circuit

Structures and Processes for applying the Grievance-Remedial Instrument
Pages 71-128 of Law: Its Nature, Functions, and Limits

Due: First Draft of Written Assignment #2 (with copies)

Tuesday, December 4

CONTINUED: Structures and Processes for applying the Grievance-Remedial Instrument
Pages 71-128 of Law: Its Nature, Functions, and Limits

Discovery Exercise

Peer Editing Exercise of the First Draft of Written Assignment #2

Fundamentals of Legal Research with Meghan Yamanishi - Cole Library (1 p.m. to 2 p.m.)

Wednesday, December 5

CONTINUED: Fundamentals of Legal Research with Meghan Yamanishi - Cole Library
(9:20 a.m. to 9:50 a.m.)

Litigation in a Civil Law System
Pages 160-165 of Law: Its Nature, Functions, and Limits

Guest Lecture: civil lawyer (Mexico) Diego Sada '87 via Skype

Due: First Rewrite of Written Assignment #2

Thursday, December 6

CONTINUED: Litigation in a Civil Law System
Pages 160-165 of Law: Its Nature, Functions, and Limits

American Politics Candidate: Class Presentation

Limitations of the Law: The Duty to Rescue
Pages 169-171 of Law: Its Nature, Functions, and Limits
Tubbs v. Argus

Friday, December 7

CONTINUED: Limitations of the Law: The Duty to Rescue
Pages 169-171 of Law: Its Nature, Functions, and Limits
Tubbs v. Argus

Workshopping your final papers with Meghan Yamanishi - Cole Library (1 p.m. to 2 p.m.)

Individual Meetings to review Written Assignment #2

Due: Abstract of Final Written Assignment

Monday, December 10

III. Law as a Penal-Corrective Instrument

Law as a Penal-Corrective Instrument
Penal-Corrective Techniques

What is theory and what are the theories of the Law (criminal)?
Pages 180-192 of Law: Its Nature, Functions, and Limits

Pages 197-201 of Law: Its Nature, Functions, and Limits
Regina v. Dudley & Stephens
M'Naghten's Case
Rex v. Esop

Due: Final (Second) Rewrite of Written Assignment #2

Tuesday, December 11

Coercive Power - Death Penalty and Corporal Punishment
Pages 224-230 of law: Its Nature, Functions, and Limits

American Politics Candidate: Class Presentation

Due: Outline of Written Assignment #3 (Final Paper)

Wednesday, December 12

CONTINUED:

Coercive Power - Death Penalty and Corporal Punishment
Pages 224-230 of law: Its Nature, Functions, and Limits

IV. Law as an Administrative-Regulatory Instrument

Law as an Administrative-Regulatory Instrument
Why we need government intervention to deal with private beneficial activity.

The fundamentals of the administrative system
Pages 299-305 of Law: Its Nature, Functions, and Limits
Problems 1 and 2

Administrative-Regulatory Techniques
Pages 305-312 of Law: Its Nature, Functions, and Limits, Sections A, B, C, D, F, G, H, & I

Thursday, December 13

V. Law as an Instrument for Facilitating Private Arrangements

Law as an Instrument for Facilitating Private Arrangements
Fundamentals of Contract Law
Pages 533-534, 538, 541-543, 547-552, 554-559 of Law: Its Nature, Functions, and Limits
Lucy v. Zehmer
Hamer v. Sidway

Friday, December 14

Remedies in the Law of Contracts

Pages 563-569 of Law: Its Nature, Functions, and Limits

Cooper v. Clute

Hadley v. Baxendale

Pierce-Odom, Inc. v. Evenson

VI. Law to Promote Equality

Law to Promote Equality (Fundamentals of Equal Protection)

Pages 703-709

Korematsu v. United States

Trump v. Hawaii

713-714, 716-730 of Law: Its Nature, Functions, and Limits

Palmore v. Sidoti

Due: First Submission of Written Assignment #3 (Final Paper)

Monday, December 17

Shelley v. Kraemer

Affirmative Action

Regents of the University of California v. Bakke, *Grutter v. Bollinger*, and *Fisher v.*

University of Texas

San Antonio Independent School District v. Rodriguez

Freedom of Religious Expression

Wisconsin v. Yoder

Political Intervention of Majority Opinions

Romer v. Evans

Open meetings to review Written Assignment #3 Drafts

Tuesday, December 18

Presentations

Wednesday, December 19

Presentations

Due: Rewrite of Written Assignment #3 (Final Paper)