

Political Science 335
Law and Society
Spring 2023
T, Th: 9:30-10:45
SCI D217

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This course explores the connections between law, society, and politics. By focusing on specific areas of private law (as opposed to public law or Constitutional law) we will study how law, society, and politics are intertwined. Some of the main questions we will ask:

- How does law influence societal and political change?
- How does social and political change affect legal change?
- How does law respond to social and political change?

Our general approach to the case law maintains that legal cases do not exist in a vacuum; case outcomes are influenced by a host of social, economic, and political factors. We will study classic and contemporary legal cases from the areas of criminal law, torts, and property law. Each case shows how concepts and principles of law are developed by courts and judges. In studying individual cases, and groups of cases, we will seek to understand how those concepts of law are affected and changed by forces extrinsic to the law itself.

Importantly, the cases focus on concepts, principles, and ideas about the law. They do NOT necessarily illustrate universal legal principles common to all US states or the federal system. Thus, as you read the cases you are not building a foundation of universal principles of law; instead, you are learning about the various legal concepts and ideas that are embedded in American case law. You are not memorizing principles of law; you are learning how to identify concepts of law embedded in the legal cases, and apply those concepts to other cases and political, social, and economic issues.

Learning Outcomes

Students will:

1. learn to closely and critically read and analyze legal cases concerning a wide range of legal issues;
2. explore the links between basic legal principles and broader issues and concerns in society;
3. learn how to appropriately and critically research the political, economic, and social forces that affect the outcome of legal disputes;
4. explain how political, social, and economic forces bring about legal change; and
5. better their skills in analyzing, critiquing, and explaining similarities and differences between legal cases and between complex legal and political materials in general.

Textrental: Kermit Hall, et al., American Legal History: Cases and Materials, (Oxford University Press, 5th ed., 2017).

Other readings: Many of the assigned cases will be from open-source casebooks available to you in Canvas, OR the cases will be posted in Canvas.

Reading: The reading assignments in this course are extensive and consist of legal cases that are complex and detailed. The assigned readings in this course are not optional, and in fact you most likely will have to read through each assignment more than once.

Turnitin.com: all written work in this class is scanned for plagiarism by Turnitin.com. Any plagiarism will result in a grade of 0 on that assignment.

Attendance and Participation: students are expected to come to class. Attendance is factored into your overall participation grade.

Grading:

Midterm Exam 20%

For the midterm exam you will answer one or two essay prompts that will cover the materials up to spring break. Your essays must be uploaded as a doc, docx, or pdf file. No other formats are accepted. E-mail submissions to me will not be accepted. You may use any of the course materials and cases in your essay. You may not use materials outside of the course. *If you have not kept up with the reading, you will not do well on the exams. I grade exams according to whether you demonstrate a good knowledge of the assigned cases and can incorporate the case concepts into your essay answers. Exams are graded with the presumption that you have read all of the assigned cases*

Final Exam 30%

For the final exam you will answer one or two essay prompts that will cover the materials after spring break, and also a cumulative essay. Your essays must be uploaded as a doc, docx, or pdf file. No other formats are accepted. E-mail submissions to me will not be accepted. You may use any of the course materials and cases in your essay. You may not use materials outside of the course.

Writing Assignment 30%

The writing assignment will be an extended essay of 2000 words minimum. Several prompts will be provided and you will answer one, using the course materials and cases to write an analytical essay addressing the specific question. This is not a research paper, and you are to use only the course materials and cases to answer the prompt. *Permission to use outside sources may be made upon request, but the sources used must be reputable, scholarly, and relevant to the question. You must check with me first.*

Participation 20%

Your participation grade will be based on consistent attendance AND participation in class discussion. See rubric in Canvas.

Grade distribution:

A	94-100%	A-	90-93%		
B+	87-89%	B	84-86%	B-	80-83%
C+	77-79%	C	74-76%	C-	70-73%
D+	66-69%	D	60-65%	F	<60%

Make-up exams: Since there are only two exams in this course, you most likely will NOT miss one. However, if you do miss the mid-term or final due to illness, family emergency, or university-related event, you may take a make-up exam scheduled by me. Please be ready to provide *documentation* of your excuse in the form of a university letter, doctor's excuse, etc.

Class Decorum: academic success hinges upon a classroom environment that supports learning. To that end, I ask that all classroom disruptions be kept to a minimum. At the very least, please do not confer with your classmate during lectures, please turn off all cell-phones and other electronic devices, please arrive to class on time, and so forth. If you do arrive to class late, please take your seat with a minimum of disruption; likewise if you have to leave early. If you need to leave early, clear it with me prior to class. If you arrive late, please see me after class is over.

Statement on Academic Integrity: I take very seriously the issue of academic integrity—the idea that academic honesty is a vital part of higher education. For the UWSP policy on academic integrity—what it is, and violations of it—I refer you to pages 5 and 6 of the Community Rights and Responsibilities Document given to all UWSP students. Academic misconduct in this course may result in sanctions, which may include (but are not limited to): a 0 on a specific assignment; a failing grade in the course; removal from the course.

Student Privacy: Federal law protects your privacy as a college student, which means your academic records generally cannot be released without your permission. Therefore, I cannot discuss your grades and classroom performance with your roommate, friends, and even parents.

No Screens: You may NOT use any device with a screen during class, unless you have my explicit permission to do so or you have permission from the Learning Resources Office.

Early American Law and Themes in Law and Society

January 24-26

Introduction

January 31-February 2

Early American legal history

Textrental: Dale's Laws; The New-York Charter of Liberties; Sources of Law in America: Reception of the Common law in America; William Blackstone on Reception Law and Colonial Society (Read all of the materials under the specific subheadings in the book listed below)
Morality and Common Law
Marriage, Women, and the Family
Colonial Welfare Systems
Class Legislation, Sumptuary Laws, and Social Deference
Law and the Colonial Economy
Early Criminal Law

Property, Law, and Society

February 7-9

Property: What is possession? What is property?

Textrental, Chapter 2, 3 Introductions: 81-83; 148-151;

Textrental: James Madison, "Property"
Canvas: Blackstone on Property; John Locke on Property (skim)

Property cases:

Textrental: Van Nees v. Pacard, Parham v. Decatur,
Cases in Canvas: Johnson v. McIntosh, Pierson v. Post;
Textrental: Water Rights: Cary v. Daniels, Irwin v. Phillips
Textrental: The Rights of Women, Property: 316-319

February 14-16

Restraints on Possession: Covenants, Adverse Possess, Zoning

Cases in Canvas: Shelley v. Kramer, Barrows v. Jackson,
O'Keefe v. Snyder

Textrental: Lionshead Lake v. Wayne Twnshp.

February 21-23

When the Government Takes your Property

Textrental: Munn v. Illinois; Lucas v. Coastal Carolina Commission;
Kelo v. City of New London

February 26

Catch-up

Criminal Law and Society

March 2-7

Textrental: State v. Felter, Bill Bell v. State, People v. Plath
Criminal Law, 2nd Ed. Corey Rayburn Yung (Open Source; in Canvas)
Pages 1-4, 17-18 Victor v. Nebraska (burden of proof)

March 9

Victimless Crimes and What Should be Criminal

Criminal Law, 2nd Ed. Corey Rayburn Yung (Open Source; in Canvas)
Pages 17-28
Lawrence v. Texas, Wisconsin v. Beechcraft, North Carolina v. Pope

March 14-16

Actus Reus, Omissions, Mens Rea

Criminal Law, 2nd Ed. Corey Rayburn Yung (Open Source; in Canvas)
Page 60-61 Introduction
Martin v. State, Pennsylvania v. Collins, California v. Oliver,
U.S. v. Fuller

March 20-24 Spring Break

March 28-30

Actus Reus, Omissions, Mens Rea

U.S. v Cordoba-Hincapie, Morissette v. U.S., Green v. Texas, U.S. v. Hernandez
Page 130 Model Penal Code
Vermont v. Kackowski, Powell v. Kentucky

April 4-6

Attempts

Criminal Law, 2nd Ed. Corey Rayburn Yung (Open Source; in Canvas)
People v Rizzo, Colorado v. Lehnert

Homicide: Actus Reus and Causation

Roy and Settles v. U.S., Michigan v. Young,
Felony Murder: California v. Russell

April 11-13

Defenses

Criminal Law, 2nd Ed. Corey Rayburn Yung (Open Source; in Canvas)
Pennsylvania v. Markum (Protests), The Queen v. Dudley and Stevens, U.S. v Holmes (Canvas); Connie v. Singleton, Wisconsin v. Chew (Canvas File), Michigan v. Sandoval,
U.S. Nwoye

Torts, Negligence, and Society

April 18-20; 25-27

Textrental: 206-217

Spencer v. Campbell, Brown v. Kendall, Ryan v. N.Y. Central R.R.
Fent v Toledo, Peoria, and Warsaw Railway

Cases in Canvas: Vosburg v. Putney, Breunig v. American Family Insurance, Summers v. Tice,
Sindell v. Abbot Laboratories, Wood v. Pennsylvania R.R., Palsgraf v. Long Island R.R.,
United States v. Carroll Towing

May 2-4

Government Liability and Special Relationships: Dalehite v. U.S.,
Tarasoff v. Regents of the University of California, DeShaney v. Winnibago Co

May 10-14

Catch-up