Law and Politics

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DESCRIPTION

This course offers an introduction to law and politics. Our emphasis is on developing an understanding of the legal foundations underlying important political debates. Salient political disputes are often governed in part by jurisprudential constraints. Although these legal foundations shape the contours of many political debates, little public attention is devoted to the governing law relative to partisan and policy considerations. By illuminating the law governing prominent political debates, this course facilitates a more comprehensive understanding of public affairs. The primary course goal is to develop an analytically sophisticated understanding of the legal frameworks that shape salient political debates. Along the way we will confront core questions concerning American politics, including the role of courts in society, the interplay between law and politics in shaping public policy, and the importance of institutional design in generating legal and political outcomes.

GRADING

The following components comprise the course grade:

- Module Quizzes (25%)
  - Due by last date listed for each module
  - 10 total quizzes with 2 lowest grades dropped

- Module Discussions (25%)
  - Participate by last date listed for each module
  - Discussion Reflection due 12/14

- Midterm Research Paper (25%)
  - Due 10/18
  - Optional substitution with class research project

- Final Research Paper (25%)
  - Due 12/06

Final grades are distributed according to the following scale:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>A</td>
<td>93-100</td>
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<tr>
<td>A-</td>
<td>90-92</td>
</tr>
<tr>
<td>B</td>
<td>83-86</td>
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<tr>
<td>B-</td>
<td>80-82</td>
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<tr>
<td>C</td>
<td>73-76</td>
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<tr>
<td>C-</td>
<td>70-72</td>
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<tr>
<td>D</td>
<td>63-66</td>
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<tr>
<td>D-</td>
<td>60-62</td>
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<tr>
<td>D+</td>
<td>67-69</td>
</tr>
<tr>
<td>F</td>
<td>59-0</td>
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</tbody>
</table>

READING

Assigned readings are hyperlinked below and freely accessible. Hyperlinked Supreme Court opinions are available in webpage format through Google Scholar. For text highlighting and note taking
purposes, opinion webpages can be downloaded in PDF format or copied and pasted into word processing programs. Opinions can also be downloaded in a variety of formats through the university’s Nexis Uni subscription. Officially paginated versions from bound volumes of the U.S. Reports are freely available through the Library of Congress or the university’s HeinOnline subscription. Officially paginated slip opinions from recently decided cases are available through HeinOnline or the Supreme Court’s webpage. University subscriptions can be accessed off campus through a VPN.

MODULES AND SCHEDULE

1. Course Introduction [08/31–09/06]
   - American Bar Association, Reading Supreme Court Opinions
   - Vanity Fair, The Path to Florida
   * No module quiz

2. Pandemic [09/07–09/13]
   - Jacobson v. Massachusetts, 197 U.S. 11 (1905)
   - Calvary Chapel v. Sisolak, No. 19A1070 (2020)
   * Labor Day 09/07

3. Abortion [09/14–09/20]
   - Roe v. Wade, 410 U.S. 113 (1973)

4. LGBT+ Classifications [09/21–09/27]
   - Bostock v. Clayton County, 140 S. Ct. 1731 (2020)

5. Affirmative Action [09/28–10/04]

6. Firearms [10/05–10/11]
   - McDonald v. City of Chicago, 561 U.S. 742 (2010)

7. Research Immersion [10/12–10/18]
   - Allocate course time to the midterm research paper due 10/18
   * No module quiz

9. Qualified Immunity [10/26–11/01]
   • Pearson v. Callahan, 555 U.S. 223 (2009)

    • Shelby County v. Holder, 133 S. Ct. 2612 (2013)
    • Rucho v. Common Cause, 139 S. Ct. 2484 (2019)

    • NAACP v. Claiborne Hardware, 458 U.S. 886 (1982)
    • Snyder v. Phelps, 131 S. Ct. 1207 (2011)

    • Furman v. Georgia, 408 U.S. 238 (1972)

    • Allocate course time to the final research paper due 12/06
      * No module quiz
      * Thanksgiving 11/25–11/27

    • Allocate course time to the final research paper due 12/06
      * No module quiz

15. Careers [12/07–12/13]
    * No module quiz
    * Last class 12/10
    * The discussion reflection is due 12/14

Generally, date ranges span from Monday to Sunday. Modules open on Canvas the first date in each range and close on the second date in each range. Quizzes and discussions must be completed by the last date in each range. My advice is to consider the Friday of each week to be the informal deadline, leaving the weekend as supplemental time to use as needed. Week 14 is a continuation of week 13 following Thanksgiving. Module 15 ends on a Thursday because that is the last day of class, though the discussion will remain open through December 13. There are discussions for each module. Modules without quizzes are noted in the schedule. These include modules 1, 7, 13, 14, and 15. University holidays are incorporated through proportionate module workload reductions.
CONTACT

Messages to the class will be sent as announcements in Canvas. Individual messages will be sent through Canvas or using the email address listed in Canvas. Do not hesitate to contact me by email. For in-depth discussions, please schedule an individual meeting by emailing me a list of available dates and times to meet over Zoom. The default will be audio-only meetings but please let me know if you prefer to use video. We can also setup a telephone call. I will generally respond to emails within 24 hours excluding weekends and holidays. For example, an email received after 5:00 p.m. on Thursday may not be returned until Monday by 5:00 p.m. As a result, module-specific questions must be submitted before Thursday at 5:00 p.m. to receive an answer before the module closes. If you do not receive a response within 48 hours excluding weekends and holidays, please send me a follows up message. For module-specific questions, please contact me by email rather than asking within the discussion thread to ensure a timely response.

ONLINE EXPECTATIONS

This course is online due to the pandemic. Most of you registered for an in-person course and many of you have not taken an online course from beginning to end. This section analogizes the online course structure to the more familiar in-person format to help establish expectations and facilitate effective time management.

By way of background, it helps to understand that the term “credit hour” is defined by federal regulation as the “amount of work represented in intended learning outcomes and verified by evidence of student achievement...that reasonably approximates not less than...[o]ne hour of classroom or direct faculty instruction and a minimum of two hours of out of class student work each week for approximately fifteen weeks.” For a three-credit hour course, this definition requires a minimum of three hours of “in class” activities and six hours of “out of class” activities.

For purposes of establishing expectations, think of this course as having familiar “in class” and “out of class” components and expect to spend about three hours per week on the former and six hours per week on the latter as required by federal regulation and university policy. Allocations may vary any given week but these are useful guidelines for thinking about average time expenditures over the course of the semester. Remember the “rule of threes” for thinking about in class and out of class time allocations:

- **In Class**
  1. Actively engage lecture recordings
  2. Participate in weekly discussion
  3. Take weekly quiz

- **Out of Class**
  1. Actively engage assigned readings
  2. Review lecture and reading notes
  3. Work on research papers

Devoting sufficient time to these weekly tasks will set the stage for effective class performance.
Module Quizzes

The module-specific quizzes cover lectures and readings. Questions are primarily multiple choice and true/false. Class materials such as lectures and notes may be referenced when taking quizzes but communication with other students is prohibited. Quiz questions and answers may not be disclosed in class discussions or forums. Correct answers will display the day after a module ends. Most course modules have a corresponding quiz that opens on Monday when the module goes live and closes on the following Sunday. Module start and end dates are listed above. Weeks without quizzes are noted on the course schedule; these include the first and last weeks as well as the research immersion weeks. Overall, there are ten quizzes. The two lowest grades are dropped for purposes of calculating the final grade.

Module Discussions

Discussions take place on Canvas. Some discussion questions will be provided but students should provide their own as well. Most course modules have a corresponding discussion that opens on Monday when the module goes live and closes on the following Sunday. Weeks 13 and 14 are the exception, with week 14 continuing the research immersion module that begins before Thanksgiving. Module start and end dates are listed above. In terms of engagement expectations, consider the following rubric for discussion performance within each module:

- A = Multiple substantive contributions
- B = One substantive contribution or multiple less engaged contributions
- C = One less engaged contribution
- D = Good faith contributions that fall short of meaningful engagement
- F = No contribution or posting in violation of the Student Code

All contributions should demonstrate high-level engagement with course materials. Substantive contributions are those that significantly enhance class discussion. Examples of substantive contributions include but are not limited to multi-sentence reflections on the material that add insight to the discussion; multi-sentence responses to questions; new questions combined with tentative answers; and pointers to additional material with an explanation as to relevance. Examples of less engaged contributions include but are not limited to clarifying questions and one sentence of otherwise cursory remarks. Examples of good faith contributions that fall short of meaningful engagement include but are not limited to those that fail to grapple with the course materials at a level signifying good faith effort. Not posting and remarks that violate the student code receive zero credit.

Discussion Reflection

A comprehensive course discussion reflection is due 12/14. The discussion reflection documents class participation over the course of the semester along with an overall personal performance assessment. Maintain this reflection over the course of the semester in order to gauge ongoing performance. All discussion comments made throughout the semester should be included in the reflection with module headings. The easiest way to do this is to use a word processing document to type comment drafts before submission so there is no further need for reflection document updating with respect to module discussions. Although module participation is the primary basis for the discussion reflection
grade, include other forms of participation such as private course-related engagement with me and participation in the general discussion thread. Module participation should be spread evenly across the semester rather than clustered heavily within a few weeks. There is no page limit but the final reflection should be submitted to Canvas in PDF format.

**Research Papers**

The midterm and final research paper projects aim to improve analytical ability with respect to understanding the relationship between law and politics. Both papers should be 3–5 double-spaced pages of text with 12-point Times New Roman font, 1-inch margins, and a separate title page that does not count against the page limit. No particular citation or reference format is required. Papers must be submitted to Canvas in PDF format. Grades are based primarily on analytical quality but adherence to the aforementioned rules and effective editing are also considered.

Both papers make use of articles from one of the following newspapers: New York Times, Salt Lake Tribune, USA Today, Wall Street Journal, or Washington Post. For both assignments, turn in a copy of the newspaper article with the paper either as an appended PDF or by copying and pasting the article text after the body of the paper; the newspaper article does not count toward the 3–5 pages. The university offers archive access to the New York Times, Salt Lake Tribune, and Wall Street Journal. Access to all but the Wall Street Journal is also available through the university’s Nexis Uni subscription. If using Nexis Uni (1) select “News” under “What are you interested in?” (2) select “Advanced Search” and (3) enter the names of the newspapers you want to search under “Source.” Off campus access to these resources is available through the university’s VPN.

**Midterm Research Paper**

For the midterm research paper, select a newspaper article reporting on a politically salient Supreme Court decision, read the underlying opinion, and analyze the extent to which the newspaper article accurately portrays the decision. Supreme Court opinions assigned in this course may not be used. This paper is due October 18. Consider the following questions:

1. Does the newspaper article accurately describe the Supreme Court’s decision?

2. What information from the opinion did the newspaper article leave out that could have given readers a more nuanced understanding of the decision’s legal foundations?

3. How did the article characterize the decision’s political implications? Is this political characterization fair given the underlying legal foundations? Do you think law or politics best explains the Supreme Court’s decision?

**Final Research Paper**

For the final research paper, select a newspaper article reporting on a politically salient event with legal implications for which there is no Supreme Court decision directly on point. Find a Supreme Court decision that has implications for the legal question and analyze the extent to which the opinion offers guidance with respect to the political question. Consistent with the university’s request for final papers to be made due prior to no-test week and two weeks prior to final examinations, this paper is due December 6. Consider the following questions:
1. What is the precise unresolved legal question?
2. What proposition of law does the selected Supreme Court opinion establish?
3. What implications does the selected opinion have for the unresolved political question?
4. What are the limitations in using the selected opinion to answer the unresolved question?
5. How might the Supreme Court rule on the unresolved legal question based on precedent?

Google Scholar is useful for searching Supreme Court decisions. Other free sites for searching decisions include Court Listener, FindLaw, and Justia. Supreme Court decisions can be freely searched by issue on sites such as Cornell’s Legal Information Institute, Oyez, and the Supreme Court Database. The university’s Nexis Uni subscription allows for searching Supreme Court decisions and has issue-specific headnotes for each opinion.

Optional Class Research Project

The university promotes undergraduate research as a way to enhance the college experience. To support this aspect of the university’s mission, particularly during a time when the college experience is diminished in some ways due to the pandemic, there is an optional collaborative class research project. Participation in the class research project can be substituted for the midterm research paper. Interested students will have the option to continue with the project as coauthors on any subsequent publication. Students must opt into participation by the end of the second week of class. Additional details concerning this project will be provided separately.

Policies

Applicable university policies are followed. These policies include but are not limited to matters concerning excused absence, class conduct, academic integrity, and disability accommodation. Module-specific quizzes and discussions are “time-dependent” under the university’s excused absence policy. As a result, consistent with university policy and depending on the circumstances, when an excused absence leads to a missed quiz or discussion I may identify a “suitable alternative” assignment. When an excused absence leads to a missed deadline with respect to the midterm paper, final paper, or discussion reflection, the deadline will be extended for the length of the excused absence with time tolled for weekends and university holidays. Absent excusal, the midterm paper, final paper, and discussion reflection may be turned in after the deadline with a 10% assignment grade reduction for each subsequent day the document is late, with time is tolled for weekends and university holidays. Unlike with excused absences, “suitable alternative” assignments will not be provided for missed “time-dependent” quizzes or discussions. Nonetheless, I understand that unavoidable circumstances sometimes necessitate absences that are not considered excused under university policy. As a result, multiple course design features account for unavoidable but unexcused absences. First, module-specific quizzes and discussions are available for one week. Second, the lowest two quiz grades are dropped when calculating the final grade. Third, discussion and participation are graded holistically based on semester performance rather than week to week.

The syllabus is subject to change.
Resources

A nonexhaustive list of university resources for students:

- **Academic Success Center** (studying, test taking, and stress management)
- **Allies on Campus** (LGBTQA+ support training)
- **Campus Recreation** (physical wellness)
- **Career Services** (job postings and professional mentoring)
- **Counseling and Psychological Services** (mental health)
- **Disability Resource Center** (course accommodations, consultation, grievances)
- **Inclusion Center** (LGBTQA+, multicultural, and nontraditional student resources)
- **Pandemic** (seeking medical treatment, support, policies)
- **Public Safety** (campus police)
- **SAAVI Office** (advocates for sexual assault and stalking victims)
- **Sexual Misconduct** (reporting, advocates, counseling, medical attention, preserving evidence)
- **Student Nutrition Access Center** (groceries)
- **Student Support Services** (services for low income, first generation, and disabled students)
- **Think, Care, Act** (assisting students in distress)
- **Title IX and Nondiscrimination** (sexual misconduct and differential treatment)
- **Veterans Resource Office** (transition support, financial resources, mentoring)
- **Upstanding** (bystander intervention against sexual violence and other interpersonal harm)
- **Writing Center** (tutoring)