



Law 300: Concepts in American Law
Spring 2024
Professor Felipe Jiménez

Schedule

Class meetings: Monday and Wednesday
2:00 PM to 3:50 PM

Class location: THH 102

Contact Details

Office: Room 423, Gould School of Law

Email: fjimenez@law.usc.edu

Office hours: Tuesday, 3:30 PM to 4:30 PM

Assistant: LaKisha Coleman, lcoleman@law.usc.edu, Room 405

Course Description

Law 300 is a course about the fundamental concepts of law and legal systems, with a particular focus on the American legal system. It invites you to reflect on law and its status as a social practice from the outside, and to learn about the internal perspective of lawyers and judges who are responsible for giving legal reasons for deciding legal disputes. The course combines theoretical questions about law and legal systems in general with more specific questions about particular areas of law. It includes readings in legal theory, legal doctrine, political philosophy, and the review of judicial decisions. You will be expected to analyze and think critically about these cases and materials, respond in class to questions that prompt you to apply your growing legal reasoning and theoretical skills, and discuss with classmates difficult and contested questions of law, morality, and policy. The central aim of the class is to help you to begin thinking about law as a constitutive part of

our social world, about the central discussions in legal theory, and about the ways in which these discussions touch upon and intersect with more specific issues in central areas of law, as well as with deeper questions about morality, justice, and politics.

Prerequisite(s), co-requisite(s), or recommended preparation:

None.

Required Materials (e.g., textbooks or other)

None. All materials will be provided by me.

Learning Objectives

Students who attend the seminar throughout the semester and satisfactorily complete the assignments required in the section below, will be able to:

- Formulate theoretical claims about law, legal reasoning, and the legal system.
- Analyze and evaluate theoretical claims about law, legal reasoning, and legal systems.
- Understand some of the basic concepts of legal theory and legal practice.
- Have a basic grasp of the practice of legal reasoning across diverse areas of substantive law.

Description and Assessment of Assignments

Grading for this course will depend on three components:

- Short papers (50%).
- Final exam (50%).
- Class participation (see below).

Short papers. Throughout the semester, you will need to submit three single-spaced, two to three-page papers, according to the following schedule:

By midnight of

February 9: Should judges always follow binding precedents?

March 8: Is the *moral reading* the right approach to constitutional interpretation?

April 12: Is legal positivism true?

I will not accept late papers, except in cases of illness or some other emergency situation. If you find yourself in this position, please let me know as soon as you are able to do so.

Class attendance and participation. You must attend every class, barring sickness or special excuse, in which case you should inform me of your absence prior to the class you will miss.

The participation component is pass/fail. During the semester, I will call upon you randomly to discuss the topics or readings of that class. As long as you are able to contribute whenever I ask you to discuss the topics or readings, you will get credit for this component. You can only fail this component if you are not prepared to talk about the topics or readings at all. “Pass” means that your grade is fully determined by your score on the short papers and final exam. “Fail” means that your final grade will be negatively affected by up to one step (e.g. from A to A-).

I realize that occasionally something comes up that prevents you from being fully prepared. If you find yourself in this position, please let me know prior to the class for which you aren’t prepared.

Final exam. This is the central graded component of the course. It will include two essay questions on one or more of the topics of the semester. The exam will be open-book.

Grading Breakdown

See above.

Course-specific Policies

You are expected to engage in substantive discussion respectfully and as would be expected in a professional environment.

Regular and punctual attendance is expected.

Office Hours

- Feel free to drop in during my scheduled office hours to discuss any issues related to the class or class materials.
- You are also always welcome to email me with any questions, concerns, and comments you might have.

Disability Accommodations

If you are entitled to a disability accommodation, please email your accommodation letter to undergraduate@law.usc.edu. Please do not give it to me or discuss your disability or accommodation with me, unless those who respond to the email you send to undergraduate@law.usc.edu ask you to do so.

Below is the schedule of mandatory and optional readings for the course.

Schedule (all readings are available [here](#)) (please note there will be no in-person class on January 24th. A recorded lecture will be provided instead)

Date	Section	Topic	Readings
I. Introduction			
January 8	1	Introduction 1: Understanding Law	1. William Ewald, <i>Comparative Jurisprudence (I): What Was It like to Try a Rat?</i> , 143 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1889–2149 (1995), selections.
January 10	2	Introduction 2: Modern Legal Systems	1. JOHN MERRYMAN AND ROGELIO PÉREZ-PERDOMO, THE CIVIL LAW TRADITION, ch. I and V. 2. Ralf Michaels, “American Law,” in <i>Elgar Encyclopedia of Comparative Law</i>
II. Legal Reasoning			
January 17	3	Introduction to Legal Reasoning	1. Frederick Schauer, Thinking Like a Lawyer, Introduction
January 22	4	Rules	1. John Rawls, Two Concepts of Rules
January 24 (No Class)	5	The Common Law 1 Note: No class due to travel. A recorded lecture will be provided.	1. Frederick Schauer, Thinking Like a Lawyer, Ch. 6, pp. 103-123 2. Riggs v. Palmer, 22 N.E. 188 (N.Y. 1889).
January 29	6	The Common Law 2	1. Frederick Schauer, Thinking Like a Lawyer, Ch. 3, pp. 36-60

			<p>2. Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992)</p> <p>3. Dobbs v. Jackson Women's Health Organization, No. 19-1392, 597 U.S. (2022)</p>
January 31	7	Statutory Interpretation	1. Bostock v. Clayton County, 590 U.S. (2020) (selections)
III. Constitutional Law			
February 5	8	Constitutional Law and Judicial Review	<p>1. Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803), short extract</p> <p>2. Lawrence Solum, Legal Theory Lexicon: The Counter-Majoritarian Difficulty https://lsolum.typepad.com/legaltheory/2012/09/legal-theory-lexicon-the-counter-majoritarian-difficulty.html</p>
February 7	9	Constitutional Interpretation	<p>1. Antonin Scalia, <i>Originalism: The Lesser Evil</i>, 57 U. Cin. L. Rev. 849 (1989)</p> <p>2. Ronald Dworkin, THE MORAL READING OF THE CONSTITUTION (NY Review of Books, 1996)</p>
February 12	10	Constitutional Rights	1. Ronald Dworkin, Taking Rights Seriously
IV. Special Jurisprudence			
February 14	11	Property	1. Thomas Merrill and Henry Smith, The Oxford Introductions to U.S. Law: Property

February 21	12	Contracts	1. Wood v. Lucy, Lady Duff-Gordon, 222 N.Y. 88, 118 N.E. 214 (1917)
February 26	13	Torts	1. John Goldberg and Benjamin Zipursky, The Oxford Introductions to U.S. Law: Torts 2. Palsgraf v. Long Island Railroad Co., 248 N.Y. 339, 162 N.E. 99 (1928).
February 28	14	Criminal Law	1. Michael Serota, How Criminal Law Lost its Mind 2. Michelle Alexander, The New Jim Crow: Mass Incarceration in the Age of Colorblindness
March 4	15	Administrative Law	1. Mila Sohoni, The Major Questions Quartet
March 6	16	International Law	1. Martti Koskenniemi, The Politics of International Law
V. General Jurisprudence			
March 18	17	Legal Positivism	2. John Austin, extract from THE PROVINCE OF JURISPRUDENCE DETERMINED (originally 1832; Cambridge UP, 1995) 1. H.L.A. HART, THE CONCEPT OF LAW (Oxford UP, 1971), Ch. 3: Variety of Laws
March 20	18	Law and Morality 1: The Natural Law Tradition	1. MARTIN LUTHER KING, LETTER FROM A BIRMINGHAM JAIL (1963) 2. THOMAS AQUINAS, SUMMA THEOLOGICA (1274), extract 3. JEREMY BENTHAM, ANARCHICAL FALLACIES

			(1793)
March 25	19	Law and Morality 2: Hart v. Fuller	1. H.L.A. Hart, <i>Positivism and the Separation of Law and Morals</i> , 71 HARVARD LR 593 (1958), selections 3. Lon Fuller, <i>Positivism and Fidelity to Law: A Reply to Hart</i> , 71 HARVARD LR 630 (1958), selections
March 27	20	Law and Morality 3: Dworkin	1. Ronald Dworkin, <i>Hard Cases</i> , 88 HARVARD LAW REVIEW 1057 (1975), selections
April 1	21	Legal Realism	1. Felix Cohen, <i>Transcendental Nonsense and the Functional Approach</i> , 35 COLUMBIA LAW REVIEW 809 (1935), selections. 2. Oliver Wendell Holmes, <i>The Path of the Law</i> 10 HARVARD LAW REVIEW 457 (1897)
VI. Law and Political Morality			
April 3	22	The Rule of Law	1. Joseph Raz, <i>The Rule of Law and its Virtue</i> (1979). 2. Margaret Jane Radin, <i>Reconsidering the Rule of Law</i> , 69 B.U. L. Rev. 781 (1989).
April 8	23	Justice	Stanford Encyclopedia of Philosophy, <i>Justice</i>
April 10	24	Law, Economics, and Efficiency	Ronald H. Coase, <i>The Problem of Social Cost</i> , 3 JOURNAL OF LAW AND ECONOMICS 1 (1960)

April 15	25	Feminist Jurisprudence	Robin West, <i>Jurisprudence and Gender</i> , 55 UNIV OF CHICAGO LR 1 (1988)
April 17	26	Law, Rights, and Race	1. Patricia Williams, from THE ALCHEMY OF RACE AND RIGHTS (Harvard UP, 1992)
April 22	27	Political Obligation and Civil Disobedience	1. Stanford Encyclopedia of Philosophy, Political Obligation
April 24	28	Review Session	

Statement on Academic Conduct and Support Systems

Academic Conduct

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards” policy.usc.edu/scampus-part-b. Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, policy.usc.edu/scientific-misconduct.

Support Systems

Student Health Counseling Services – (213) 740-7711 – 24/7 on call
engemannshc.usc.edu/counseling

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.
National Suicide Prevention Lifeline – 1 (800) 273-8255 – 24/7 on call
suicidepreventionlifeline.org

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention Services (RSVP) – (213) 740-4900 – 24/7 on call

engemannshc.usc.edu/rsvp

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

Office of Equity and Diversity (OED) | Title IX – (213) 740-5086

equity.usc.edu, titleix.usc.edu

Information about how to get help or help a survivor of harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following protected characteristics: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

Bias Assessment Response and Support – (213) 740-2421

studentaffairs.usc.edu/bias-assessment-response-support

Avenue to report incidents of bias, hate crimes, and microaggressions for appropriate investigation and response.

The Office of Disability Services and Programs – (213) 740-0776

dsp.usc.edu

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

USC Support and Advocacy – (213) 821-4710

studentaffairs.usc.edu/ssa

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

Diversity at USC – (213) 740-2101

diversity.usc.edu

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

USC Emergency – UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

dps.usc.edu, emergency.usc.edu

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

USC Department of Public Safety – UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call

dps.usc.edu

Non-emergency assistance or information.

Help with Basic Needs

<https://studentbasicneeds.usc.edu/>

If you are experiencing food insecurity

<https://studentbasicneeds.usc.edu/resources/food-insecurity/>

If you are experiencing housing insecurity

<https://studentbasicneeds.usc.edu/resources/housing-insecurity/>

If you are experiencing financial insecurity

<https://studentbasicneeds.usc.edu/resources/financial-insecurity/>

If you need help procuring technology to perform coursework remotely

<https://studentbasicneeds.usc.edu/resources/technology-assistance/>

We realize attending classes online and performing coursework remotely requires access to technology that not all students may possess. If you need resources to successfully participate in your classes, such as a laptop or internet hotspot, you may be eligible for the University's equipment rental program. To apply, please fill out this form (see link above) and our Student Basic Needs team will partner with you to evaluate your options.