1  POLITICAL SCIENCE LEGAL STUDIES
217
Law, Politics, and Society

2  INSTRUCTORS

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3  INFORMATION CARD

Your name
Year in school
Major or expected major
Prior political science or sociology classes
Email address
Discussion section time
ID Number if not registered

4  COURSE THEMES

- Introduction to basic concepts of law
- Major types of legal systems
- Reading cases and legal reasoning
- Legal actors, both in the U.S. and other countries
- Legal institutions
- Impact of law and legal institutions

5  Course Expectations

- READINGS
- Thinking
- Writing
Talking

 Requirements

■ Discussion attendance and participation
  ■ 20%
■ 2 midterms (essay & short answer)
  ■ 25% each
■ Final quiz (short answer)
  ■ 15%
■ Short paper
  ■ 15%

 Grading Scale

■ A  a thorough understanding of the course material and an ability to use and apply the material in a creative and interesting fashion.
■ B  a thorough understanding of the course material.
■ C  a less than thorough understanding of the course material.
■ D  a passing acquaintance with the course material.
■ F  no evidence of any knowledge of the course material.

 Miscellaneous Policies

■ Makeup Exams
■ Extensions
■ Incompletes
■ Seating
■ Latecomers
■ Cell phones

 Course Syllabus

Online at:
http://www.polisci.wisc.edu/~kritzer/teaching/ps217/syllabus.htm

 What is Law?

■ Common to speak of law as if we are confident that others will know what we mean when we say “law”
■ What do YOU mean when you say “law”?
■ Why do people differ in their definitions?
■ Is there a correct way to define law?
■ What are the possible approaches to dealing with the definitional issues?

 The Dictionary

Webster's new international dictionary, 1950, p. 1404):
"The binding custom or practice of a community; rules or mode of conduct made obligatory by some sanction which is imposed and enforced for the violation by a controlling authority."

 Functional
What function does what we think of as law play in our society? A central function of law is “social control”: the regulation of personal and organizational behavior.

Donald Black: "Governmental social control"

### Other Functions
- Regulate relationships between government and citizen
  - Limit and control government by citizens
  - Empower government over citizens
- Regulate relationships between government entities
- Regulate relationships between citizens and corporate entities

### Law Is What is Produced by Lawmakers
- **Sources**
  - Acts of legislatures
  - Decisions of courts
  - Executive orders
  - Administrative regulations
- **Growth of output**
  - Statutes
  - Federal register

### Normative
- Law as an ideal of social relations
- Law as creating norms rather than reflecting norms
- “Natural” law
  - Universal principles
  - God’s law

### Behavioral
- What is it that the actors we think of as “legal actors” do and say about the “law”?
  - Oliver Windell Holmes: "The prophecies of what courts will do in fact, and nothing more pretentious, are what I mean by law."

### Process
- Law is a part of the process employed by legal actors, and we should think of law in terms of that process
  - Carter and Burke (*Reason in Law*):
    "Law is a language that lawyers and judges use when they try to process or resolve problems—human conflicts—using official rules made by the state as their starting point."

### Implementation
How is what we call “law” implemented or enforced?

Adamson Hoebel:

“A social norm is legal if its neglect or infraction is regularly met, in threat or in fact, by the application of physical force by an individual or group possessing the socially recognized privilege of so acting.”

So, what IS law?

- No one is incorrect!
- Is there a best definition?
  - Depends on purpose
  - Reflects context of discussion
  - Influenced by personal preference
- Are there better definitions?
  - How useful is a definition
  - Degree of particularism

What do I mean when I say Law?

- Law consists of social norms whose neglect or infraction is regularly met, in threat or in fact, by the application of physical force by an individual or group possessing the socially recognized privilege of so acting.
- Norms and policies implemented and/or enforced by the agencies of the state or through other forms of community action

Right and Wrong Answers

- Natural desire to find the “right” answer
- Often there is no one “right” answer
- There may well be “wrong” answers even if there is no right answer
- A key element of “analysis” is assessing the validity of answers, and understanding the basis of that assessment.

Analysis more broadly

- Explication of question
  - Analysis formally means breaking up of a whole into its parts to find out their nature
- Identifying evidence
  - Types of evidence
- Assessing and weighing evidence
- Assessing alternative answers in light of the evidence