

THE UNIVERSITY OF CALGARY
FACULTY OF ARTS
DEPARTMENT OF SOCIOLOGY
(<http://soci.ucalgary.ca>)

Introduction to Legal Knowledge (LWSO 203)

Winter 2018

M/W/F 10:00 – 10:50

Classroom: ENA 201

Instructor: Dr. Kirsten Kramar

Office Location: SS 920

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TA: Martine Dennie

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Office Hours: M/W/F 11:00 a.m. – 12:30 p.m. (or by appointment)

Course Description

This course examines the development of legal theory in the common law tradition. Part I introduces students to the major legal theories and their origins in the common law tradition. These theories for part of the general Western philosophical tradition and have come into the common law indirectly. Part II moves from an historical survey of the major themes in philosophy of law and legal theory to a survey of the common law jurisprudence.

Textbook and Readings

Groake, Paul (2013). *Legal Theories: A Historical Introduction to Philosophy of Law*. Toronto: Oxford University Press.

See also: www.oupcanada.com/LegalTheories for additional online readings (found listed in the Appendix). Oxford University Press Companion website student access ID and password posted in D2L. Additional supplementary/recommended readings may be posted for retrieval in Desire2Learn.

Assessment Components:

Formal evaluation in this course will consist of 3 in-class tests each worth 20% and 1 Final Exam (cumulative) worth 40%.

Date, time and location (may be subject to change with advance notice):

Test 1: February 2, 2018

Test 2: March 12, 2018

Test 3: March 28, 2018

All testing is done in class, is closed book, invigilated. The tests will consist of mixed multiple-choice questions based on lecture materials and assigned readings.

Final examination

Value: 40%

Date, time and location: As scheduled by the Registrar

Length: Two hours

Type: Closed-book, invigilated

Description: Mixed multiple choice and short, written answers

The following letter grades will be assigned to the corresponding numerical scores:

Final Percentage Score	Letter Grade
97-100	A+
90-96	A
85-89	A-
81-84	B+
78-80	B
75-77	B-
70-74	C+
65-69	C
60-64	C-
55-59	D+
50-55	D
≤49.9	F

A+ grade: *Exceptional Performance*. An A+ grade indicates near perfect performance on multiple choice and short answer exams. For research papers/essays/course projects/presentations, an A+ grade is awarded for exceptional work deserving of special recognition and is therefore not a common grade.

A, A - Range: *Excellent Performance*. Superior understanding of course material. Written work is very strong in terms of critical and original thinking, content, organization, and the expression of ideas, and demonstrates student's thorough knowledge of subject matter.

B Range: *Good Performance*. Above average understanding of course material. Written work shows evidence of critical thinking and attention to organization and editing but could be improved in form and/or content.

C Range: *Satisfactory Performance*. Adequate understanding of course material. Knowledge of basic concepts and terminology is demonstrated. Written work is satisfactory and meets essential requirements but could be improved significantly in form and content. Note: All prerequisites for courses offered by the Faculty of Arts must be met with a minimum grade of C - .

D range: *Marginally meets standards*. Minimal understanding of subject matter. Written work is marginally acceptable and meets basic requirements but requires substantial improvements in form and content. Student has not mastered course material at a level sufficient for advancement into more senior courses in the same or related subjects.

F grade: *Course standards not met*. Inadequate understanding of subject matter. Written work does not meet basic requirements. Student has not demonstrated knowledge of course material at a level sufficient for course credit.

Course Objectives

The purpose of this course is to engage with issues that are integral to the study of the sources of legal knowledge. Through the process of our collaborative engagement with legal theories, academic arguments, and case law, both student and teacher embark on a voyage of intellectual experimentation, dialogue and discovery. Thus, our objective is shared: the outcomes unpredictable. My ambition is to contribute to your development as 'engaged citizens' by deepening your liberal arts education during lectures, assigned readings, critical reflection, and discussions about the socio-political arguments that underpin the legal knowledge that shapes our contemporary social world.

RIGHTS, RESPONSIBILITIES AND CLASSROOM POLICIES:

This section of LWSO 203 is a lecture-based course. I do not provide students with power-point slides or copies of my lecture notes. The research demonstrates that Power point makes you stupid. Here's a link that explains why:

<https://www.theguardian.com/commentisfree/2015/sep/23/powerpoint-thought-students-bullet-points-information>

And here is another one (this one is funny):

<https://thesmartset.com/powerpoint-makes-us-stupid/>

Attendance is not mandatory. However, students who do not attend the lectures will be ill-prepared for the exams. In the past, students who did not attend lectures did very poorly in the course.

Students should expect to spend one or two hours preparing for each class session by reading the assigned materials. All materials are required readings. Depending on the quality of the class notes taken, students may expect to spend another two to four hours preparing for each of the tests and then again for the final examination.

Other Expectations:

Students are expected to arrive on time and having already read the readings for the week. The course moves quickly through a great deal of complex material and debates.

To ensure the best learning environment for all students, students are asked to avoid use of laptops and other electronic note-taking devices in this course. Students who require the use of electronic devices for academic accommodation purposes are exempt from this policy. Please be considerate of others and switch off all cell phones when you enter the classroom.

Sending/receiving texts and browsing the Web is extremely disruptive to others and will not be tolerated. Please no eating during class. Please see associated subsection entitled "Laptopistan" below for guidelines in place for the use of laptops in the classroom.

Feel free to contact me or your teaching assistant over email at any time. Please put your course number – LWSO 203 – in your email's subject line. Emails will be answered within one business day. We do not answer emails over the weekend. Please take that into account when emailing us questions pertaining assignments or exams. If you have a course-related question, please check the course outline first. Also, unless otherwise instructed, please e-mail me for administrative purposes only, for example to set up an appointment. Please do not use e-mail as a replacement for an office visit, if there is something you want to discuss. Questions about the course content and readings, concerns about grades, or any other personal issues should be dealt with in person either with me or the teaching assistant, Marine Dennie during office hours. Ms. Dennie is your first line of contact for all administrative matters regarding tests.

Continued enrolment in this course indicates full agreement with the conditions, content, and expectations outlined in this syllabus. Please bring any concerns or questions about the contents of this syllabus to my attention as soon as possible. This syllabus will be discussed, and opportunities for questions provided, during the first day of class. I am also available during the term during office hours to clarify any questions regarding this syllabus, including due dates, course content and reading and research requirements.

As with most courses in law & society, this course deals with controversial contemporary socio-legal issues upon which there is often contentious debate and disagreement. Topics we cover may include: legal approaches to allegations of sexual misconduct, legal rules regarding freedom of expression and censorship, laws guaranteeing religious freedom in the context of diversity/multiculturalism. These issues are examined in relation to the contemporary debates in liberal society specifically around the role of law in relation to liberal values such as freedom, diversity and equality and the various efforts introduced in law and policy to achieve those valued goals.

Grade Reappraisal

Within two weeks of the date the exam/assignment is returned, students seeking reappraisal of

examinations or assignments must submit a written response to the instructor explaining the basis for reconsideration of one's mark (why you believe an error in grading has been made). The instructor will reconsider the grade assigned and will then book a time with the student to discuss his or her work and rationale. I am more than willing to formally or informally review grades assigned and have no particular desire to give anyone a bad grade. It should be noted that a reconsidered mark may be raised, lowered, or remain the same. This policy pertains less to those courses in which the method of evaluation involves multiple choice testing.

Technology Use

Please note that the use of cell phones and laptops are to be avoided during lectures. Please be sure to mute your cell phone and use only in case of a family or related emergency. Please feel free to step outside class at any time to deal with a family or personal emergency. You will be asked to leave the classroom if you use technology other than for an approved purpose.

Laptopistan

Research demonstrates that laptops used for note-taking interfere with learning. Using a pen and paper to take notes will increase your ability to understand and retain information from class lectures. More importantly, laptops are a kind of "second-hand smoke" for others. They have a negative effect on those exposed to others who are using them and multitasking. Here is a link to the research: <https://www.psychologytoday.com/blog/everybody-is-stupid-except-you/201305/close-laptop-in-class>

And another one:

<https://www.inc.com/james-sudakow/science-says-ditch-the-laptop-for-a-pen-and-paper-for-note-taking.html>

For those students who think they are smarter than the researchers, you may use your laptop so long as you sit in the back 2 right hand side rows of the classroom. Laptop use is banned in all other areas of my classroom. If these rows are full, you may not use your laptop. Get there early to secure a spot if necessary. Save yourself: turn off your wifi.

Email

Feel free to contact me over email at any time. **Please put your course number and section in your email's subject line, and include a proper salutation, your full name, student ID, and a proper closing in the body of your email. All emails violating customary email conventions will be ignored.** All other emails will be answered within one to two business days. I do not answer emails over the weekend. Please take that into account when emailing me questions pertaining assignments or exams. If you have a course-related question, please check the course outline first. **Questions that can be answered by consulting the course outline will not be answered.** Also, please e-mail me for administrative purposes only, for example to set up an appointment. Please do not use e-mail as a replacement for an office visit, if there is something you want to discuss. **Questions about the course content and readings, concerns about grades, or any other personal issues should be dealt with in person during my office hours.**

Submitting Papers, Assignments

1. The main Sociology Department office does not deal with any course-related matters. Please speak directly to your instructor.

2. **Protection of Privacy:** The Freedom of Information and Protection of Privacy (FOIPP) legislation does not allow students to retrieve any course material from public places. Anything that requires handing back will be returned directly during class or office hours. If students are unable to pick up their assignments from the instructor, they provide the instructor with a stamped, self-addressed envelope to be used for the return of the assignment.
3. Final grades are not posted by the Sociology Department. They are only available online.

Ethics in Research

Students are advised that any research with human subjects – including any interviewing (even with friends and family), opinion polling, or unobtrusive observation – must have the approval of the Faculty Ethics Committee. In completing course requirements, students must not undertake any human subjects research without discussing their plans with the instructor, to determine if ethics approval is required.

Academic Misconduct

Please refer to the website listed below for information on University of Calgary policies on Plagiarism/Cheating/Other Academic Misconduct:

<http://www.ucalgary.ca/pubs/calendar/current/k-5.html>

Deferrals

When possible, please provide advance-notice if you are unable to write an exam or complete/turn-in assignments on time. All requests for deferral of a course component due to health reasons must be accompanied by written documentation as outlined in the University Calendar and should be obtained while the student has the health issue rather than after recovery. Deferrals will be allowed in the following circumstances: illness, domestic affliction or religious conviction. Travel arrangements, misreading the syllabus, and scheduling conflicts with other classes or employment are not valid reasons for requesting a deferral. Deferrals will not be granted if it is determined that just cause is not shown by the student.

If you have missed a test for a legitimate reason, the instructor can require you to write a “make-up” test as close in time to the original test as possible or can choose to transfer the percentage weight to another course component. If the instructor schedules a “make-up” test for you, its date and location will be at the convenience of the Department of Sociology.

Deferred Final Exam Form: Please note that requests to defer a Registrar scheduled final exam are dealt with through the Registrar’s Office. Further information about deadlines, and where paperwork should be taken, is available on the form, which can be found at:

<https://www.ucalgary.ca/registrar/student-forms>

Deferred Term Work Form: Deferral of term work past the end of a term also requires a form to be filled out. It’s available at

https://www.ucalgary.ca/registrar/files/registrar/deferred_termwork15_0.pdf

Once an extension date has been agreed between instructor and student, the form should be taken to the Faculty of Arts Program Information Centre (SS 110) for approval by an Associate Dean (Students).

Student Representation

The 2017-18 Students' Union VP Academic is Tina Miller (suvpaca@ucalgary.ca).

For more information, and to contact other elected officials with the Student's Union, please visit this link: <https://www.su.ucalgary.ca/about/who-we-are/elected-officials/>

You may also wish to contact the Student Ombudsperson for help with a variety of University-related matters: <http://www.ucalgary.ca/ombuds/contact>

Emergency Evacuations

In the case of fire or other emergency evacuation of this classroom, please proceed to the assembly point at **ICT – Food Court**. Please check these assembly point locations for all of your classes at :<http://www.ucalgary.ca/emergencyplan/assemblypoints>

Safewalk

The University of Calgary provides a “safe walk” service to any location on Campus, including the LRT, parking lots, bus zones, and campus housing. For Campus Security/Safewalk call 220-5333. Campus Security can also be contacted from any of the “Help” phones located around Campus.

Academic Accommodation

The student accommodation policy can be found at: ucalgary.ca/access/accommodations/policy.

Students needing an Accommodation because of a Disability or medical condition should communicate this need to Student Accessibility Services in accordance with the Procedure for Accommodations for Students with Disabilities ucalgary.ca/policies/files/policies/student-accommodation-policy.

Students needing an Accommodation based on a Protected Ground other than Disability, should communicate this need, preferably in writing, to the course instructor.

Tentative Course Schedule

Our schedule and readings may be subject to change – announcements about changes to the course schedule are done in class. If you miss a class it is your responsibility to get up to date on the schedule and readings.

Week One – Tribal law

January 8, 10, 12.

Required Readings:

Groake, Paul (2013) Preface, Introduction and Ch. 1 “Tribes and the Origins of the Law” pp. xxviii – 29

Additional online readings:

1. Anthropological Debates: From Leopold Pospíšil, *Anthropology of Law: A Comparative Theory* (New York: Harper and Row, 1971). “Anthropological Theories of Law”
2. Banishment and Outlawry:
 - a. From E. Adamson Hoebel, *The Law of Primitive Man: A Study in Comparative Legal Dynamics* (Cambridge, MA: Harvard University 1954) “Inuit Taboos”

- b. From Tom Porter, "Traditions of the Constitution of the Six Nations" in *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and J. Anthony Long (Toronto: University of Toronto, 1984) pp. 14-21 "Banishment in the Constitutional Law of the Mohawk"
- c. From Sir Francis Palgrave, *The Rise and Progress of the English Commonwealth, Anglo-Saxon Period: Part II, Proofs and Illustrations*, vol. 7 of *The Collected Historical Works of Sir Francis Palgrave*, ed. R.H. Inglis Palgrave (Cambridge: Cambridge University, 1921). "The Origins of the Phrase *Lupinum Caput Gerere*, which Decrees that the Outlaw Has the Head of a Wolf"

Week Two – The Christian Tradition

January 15, 17, 19.

Required Reading:

Groake, Paul (2013). Chapter 2 "The Christian Tradition: Thomas Aquinas" pp. 30-50.

Additional Online Reading:

1. From John Finnis, *Aquinas: Moral Political and Legal Theory* (Oxford: Oxford University Press, 1998) "The Positive Law in Aquinas' Theory of the Natural Law"

Week Three – The Shift to Natural Rights and the Political Contract

January 22, 24, 26

Required Reading:

Groake, Paul (2013). Chapter 3 "The Shift to Natural Rights and the Political Contract: Hugo Grotius and Samuel von Pufendorf" pp. 51-73.

Additional Online Reading: Chapter 3

Week Four – Early Scientism

January 29, 31 February 2.

Required Reading:

Groake, Paul (2013). Chapter 4 "Early Scientism: Law is the Science of Judges and Places Limits on the King" pp. 74-96

Additional Online Reading: Chapter 4

Week Five- Utility vs. Reason

February 5, 7, 9.

Required Reading:

Groake, Paul (2013). Chapter 5 "Law Is a Product of Utility or Pure Reason" pp. 97-121

Additional Online Reading:

Week Six- Legal Positivism

February 12, 14,16.

Required Reading:

Groake, Paul (2013). Chapter 6 "Legal Positivism: The Political Order Takes Precedent" pp. 122-148.

Week Seven: NO CLASS- Reading Week February 18-25th, 2018.

Week Eight- Modern Scientism

February 26, 28, March 2.

Required Reading:

Groake, Paul (2013). Chapter 7 “Modern Scientism: Formalism, Legal Skepticism, and Pragmatism” pp. 149-171.

Week Nine- Constitutionalism

March 5,7,9.

Required Reading:

Groake, Paul (2013). Chapter 8 “Constitutionalism: Legal Skepticism and the Doctrine of the Living Tree” pp. 172-199.

Week Ten- Legal Realism and Later Positivism

March 12, 14, 16.

Required Reading:

Groake, Paul (2013). Chapter 9 “Legal Realism Adopts an External Perspective” pp. 200-225.

Groake, Paul (2013). Chapter 10 “Later Positivism: The Law Derives Its Authority From the State” pp. 226-249.

Week Eleven- the Hart-Fuller Debate

March 19, 21, 23.

Required Readings:

Groake, Paul (2013). Chapter 11 “The Hart-Fuller Debate and the Procedural Account of the Natural Law” pp. 250-274.

Week Twelve- Contemporary Liberal Theory

26, 28. March 30 NO CLASS Required Reading:

Required Reading:

Groake, Paul (2013). Chapter 12 “Contemporary Liberal Theory: Dworkin’s Critique of Hart’s Positivism” pp. 275-299

Week Thirteen- New Realism

April 2, 4, 6.

Required Readings:

Groake, Paul (2013). Chapter 13 “The New Realism: Critical Legal Studies, Feminism, and Postmodernism” pp. 300-327

Week Fourteen- Private Law

April 9, 11, 13.

Required Reading:

Groake, Paul (2013). Chapter 14 “Private Law: The Civil Law Is Based on the Rights of the Person” pp. 334-358

End of Classes April 13th, 2018.