*A M E R I C A N L E G A L T H O U G H T*

Prof. Collier

Course Requirements

1. Casebook: Charles W. Collier, *Basic Themes in Law and Jurisprudence.*

LexisNexis or Anderson Publishing Co., 2000. Pp. xviii + 486.

1. Preparation. Advance preparation for class is essential. I will usually attempt to give a rough estimate of the next week's reading on Wednesdays. *But in any event you are always responsible for preparing at least 10 pages beyond the point where the previous class ended.* Students should expect to spend at least two hours outside of class reading and preparing for every hour of class.

We'll generally follow the order of the readings in the materials, but some selections may be skipped, and other assignments may be added from other sources from time to time. Parts IV and V will not be read in their entirety; a modified list of selections from those parts will be handed out later. (Any other modifications will be announced in class.) Selections in [brackets] are optional.

1. Class participation. Students will be called on regularly. Much of the material in this course is subject to multiple interpretations; your insights are a highly relevant component of the course. The quality of class participation will be taken into account in the determination of grades. Attendance in class is required by both the ABA and the Law School. If you miss classes, your grade for the semester may be adversely affected. If you have a legitimate reason for missing class, you should contact me before or soon after class for your absence to be excused.
2. Students requesting accommodations for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester.
3. Classroom Etiquette. Cellphones should be turned off prior to class or not brought into the classroom at all. If you need to make or take a call during the class period, you should not attend class that day. If you think your computer might make a noise during class, please do not bring it into the classroom that day. Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution. These rules are for the benefit of you and your fellow classmates.
4. Paper Requirements. Two papers are required for this course; there are no exams. The first paper (10 pages (double-spaced) maximum) will be due at our last class (which is not necessarily the same day as the "last day of classes" generally). At that time the topic for the second paper (5 pages (double-spaced) maximum) will be handed out. The second paper is due on the last day of the examination period.

The topic for the first paper is as follows: Write a paper having something to do with one or more of the coursebook readings (including class handouts and films). You must turn in a written *statement of your topic* before Spring Break. Along with this statement you should also include a *statement of your thesis.* Your thesis is the proposition you will advance and argue for in the paper. "I am going to discuss *The Lottery*" is not a thesis. "I am going to show that the political philosophy underlying *The Lottery* is illogical, irrational, inconsistent, and contradicts all that American legal thought stands for" is a thesis. Formulating a thesis will help to focus and guide your thinking. If at that time you can also provide a brief *outline* of your paper, that would be good too (but this is not required).

This course follows the Levin College of Law’s grading policies found [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies). The following chart describes the specific letter grade/grade point equivalent in place:

|  |  |
| --- | --- |
| Letter Grade | Point Equivalent |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) |  |

1. Online Evaluations: Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](https://gatorevals.aa.ufl.edu/students/) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via [ufl.bluera.com/ufl/](file:///C:\Users\rmcilhenny\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\QH37XRU4\ufl.bluera.com\ufl\). Summaries of course evaluation results are available to students [here](https://gatorevals.aa.ufl.edu/public-results/).
2. Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

* You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
* This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
* Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* Be mindful of how to properly enter and exit the classroom.  Practice physical distancing to the extent possible when entering and exiting the classroom.
* If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus.  <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.

1. Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work.<https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>.
2. Office hours: Mondays, Tuesdays, and Wednesdays, right after class. (Right

*before* class is not a good time.) My office is room 373 Holland Hall.

Short questions may be raised right after class in the classroom. As a general matter, substantive legal questions that arise after class are best reserved for the beginning of the following class, where everyone can participate in their resolution (potentially resulting in a better answer). For more urgent matters, however, you may call my office extension (273-0965) at any time. (You will not disturb me.) If I am not there, you may leave contact information for a return call.

Course Description

Credits: 3. An introduction to the fundamental issues and ideas that have shaped the law. Theorists of American law include legislators, governmental administrators, judges, lawyers, legal scholars, and commentators from other disciplines. This course examines basic concepts in legal thought, primarily of the American twentieth century. Topics include: law as literature and as portrayed in literature; law and society; freedom and necessity; the reach of the law; the legal and the non-legal; law and morality; justice; and critical perspectives on law (Critical Legal Studies). This course is especially recommended for students who are interested in the development of legal theory or are considering a career in law teaching.

Part I

*Law and Society*

Introduction

Chapter 1: Communities in Crisis

Shirley Jackson, "The Lottery" (1948)

*The Lottery* (film)

A Trial of Witches (1682)

Thomas J. Dimsdale, *The Vigilantes of Montana* (1866)

*Panic in Year Zero!* (1962) (film excerpt)

Kai T. Erikson, "On the Sociology of Deviance," in *Wayward Puritans* (1966) Notes and Questions

Chapter 2: From Community to Society

Garrett Hardin, "The Tragedy of the Commons" (1968) *The Federalist No. 10* (James Madison) (1787) Papachristou v. City of Jacksonville (1972)

City of Chicago v. Wilson (1978) Walker v. Superior Court (1988) Paris Adult Theatre I v. Slaton (1973) Notes and Questions

Part II

*Freedom and Necessity*

Introduction

Chapter 3: Life or Death

Regina v. Dudley and Stephens (1884) United States v. Holmes (1842)

*Lifeboat* (by John Steinbeck, film excerpt)

Lon L. Fuller, "The Case of the Speluncean Explorers" (1949) Notes and Questions

Chapter 4: Self-Defense and Its Limits Bill Bell v. State (1885)

People v. Goetz (1986) Notes and Questions

Chapter 5: Other Forms of Necessity Bird v. Jones (1845)

United States v. Moore (1973) [Bailey v. Alabama (1911)]

[Robert L. Hale, "Coercion and Distribution in a Supposedly Non-Coercive State" (1923)]

Notes and Questions

Part III

*The Reach of the Law*

Introduction

Chapter 6: Some Findings of Social Science

Solomon E. Asch, "Opinions and Social Pressure" (1955) *Obedience* (documentary film by Stanley Milgram) Stanley Milgram, "Behavioral Study of Obedience" (1963)

Craig Haney, Curtis Banks & Philip Zimbardo, "A Study of Prisoners and Guards in a Simulated Prison" (1973)

Katz v. Superior Court (1977) Notes and Questions

Chapter 7: Warfare and the Reach of the Law

The Nuremberg Trials: Justice Jackson's Report to the President (1945)

*Nuremberg: Reflection and Resonance* (documentary film) The Nuremberg Trials: Proceedings (1946)

The Nuremberg Trials: Judgment (1946) United States v. Calley (1973)

Notes and Questions

Chapter 8: The Abuse Excuse

United States v. Alexander and Murdock (1972)

Jahnke v. State (1984) State v. Norman (1989) Notes and Questions

Part IV

*The Legal and the Non-Legal*

Introduction

Chapter 9: Rule-Governed Institutions

Ferdinand de Saussure, "Invariability and Variability of the Sign," in *Course in General Linguistics* (1916)

Law No. 94-665 of 4 August 1994 Relative to the Use of the French Language (1994)

Emily Post, *Etiquette* (1922)

Emily Post, "The True Meaning of Etiquette," in *Etiquette* (10th ed. 1960) New York Rules of Court: Standards of Civility (1998)

Gretchen Craft Rubin & Jamie G. Heller, "Restatement of Love" (1994) Cornell University Sexual Harassment Procedures (1991)

Wildey v. Springs (1995) Notes and Questions

Chapter 10: Smaller Groups and Associations

"The Scout Law," *Boy Scout Handbook* (7th ed. 1965)

Randall v. Orange County Council, Boy Scouts of America (1998)

Boy Scouts of America v. Dale (2000)

Walter O. Weyrauch, "Unwritten Constitutions, Unwritten Law" (1999) Dawkins v. Antrobus (1879)

United States v. Ballard (1944) Stambovsky v. Ackley (1991) Notes and Questions

Chapter 11: Quasi-Legal Governance

Mercury Bay Boating Club v. San Diego Yacht Club (1989)

*Robert's Rules of Order Revised* (1915)

Department of the Army Field Manual, *The Law of Land Warfare* (1956) Notes and Questions

Part V

*Law and Morality*

Introduction

Chapter 12: The Realms of Law and Morality Distinguished Oliver Wendell Holmes, "The Path of the Law" (1897)

H.L.A. Hart, "Moral and Legal Obligation," in *The Concept of Law* (1961) Riggs v. Palmer (1889)

Notes and Questions

Chapter 13: Legal Implications of Personal Morality

Henry M. Hart, Jr. & Albert M. Sacks, "The Invitation to Dinner Case," in *The Legal Process* (1958)

Hamer v. Sidway (1891) People v. Lafka (1959)

Bowers v. Hardwick (1986) (selection) Lawrence v. Texas (2003) (selection) Notes and Questions

Chapter 14: Are There Affirmative Legal Duties?

Union Pacific Railway Co. v. Cappier (1903) People v. Beardsley (1907)

Pope v. State (1979)

Theodore Dreiser, *An American Tragedy* (1925) Notes and Questions