**Reading Class: Theories of Law and Property (1 credit)**

Spring, 2022

Professor Wright

Office Hours: Thursdays 10:00-11:00

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Holland Hall 352

This is a reading class on the theories and jurisprudence of property. We will begin the semester with a conversation about private property and with some short readings to get you thinking about how private property defines so many of our relationships and limits our ability to promote equal rights and protect the general welfare. After a couple of weeks of general readings, we will move into five specific topics in which private property poses limitations and opportunities for human flourishing. These are 1) the environment and resource exploitation, 2) property rights in the person, from slavery to DNA, 3) property rights and systemic racism, 4) property rights and climate change, and 5) property rights and human rights. We will conclude the semester with a 1-hour class at the end to bring it together. Students will be responsible for preparing an annotated bibliography of readings on their topic and leading the class discussion, as well as being prepared for and participating in all class discussions.

**Required Text**: Robert C. Ellickson, Carol M. Rose, Henry E. Smith, Perspectives on Property Law, 4th edition, Aspen, 2014.

**Assignments**: We will have a text of very heavily-edited articles on some of the subjects we will be covering and everyone will be expected to read the assigned readings from the book for each week. In addition, everyone will sign up to work as a group and lead the discussion on one of the 5 discussion topics. For your topic, your group will need to draft a detailed annotated bibliography of at least 9 other readings (law review articles or book chapters) that address your topic. I will provide you with a bibliography of possible sources, but I expect you to do your own research and work together to come up with questions and provide information to further our class discussion. **The annotated bibliographies will be due at 9:00 a.m. on the Wednesday before your presentation**. Your final grade will be determined based on the following:

20% Class participation

30% Annotated Bibliography

50% Class presentation/discussion

There is no final exam for this class. I do expect that you will spend at least two hours outside of class reading and preparing for every hour of class. The majority of that time will be spent working on your research, annotated bibliography, and presentation for your group.

**Accommodations**: Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to me when requesting accommodations. Students with disabilities should follow this procedure as early as possible in the semester.

**Learning Outcomes**: This is an upper-level class on theories of property and their application in our post-modern, global world. You will be reading some classics on property as well as law review articles and book chapters engaging the social, political, global, and human consequences of private property. I hope that you leave this class with a broader understanding of the role of property law in our modern world and that you are critically engaged with how property interacts with the issues of our day. You will also have to do your own research to provide scholarly readings on your topic and present what you have discovered to the class.

**Grading**: The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. 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) | 0.0 |

Because this is a small class, your grade will be heavily dependent on class participation and engagement with the readings.

**Honor Code:** You are bound by the University and the College of Law honor code in this class, but also remember that this is a class based on group collaboration and in-class engagement with the topics for discussion. I will consider it an honor code violation if you do not pull your own weight in the class.

**Attendance:** You are expected to attend every class, but I realize that you might be unable to do so for circumstances beyond your control. If you miss more than 2 hours of class, that will heavily impact both your understanding of the material and your ability to participate. Please do not miss more than 2 hours. The law school's policy on attendance can be found [here](https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies#:~:text=co%2Dcurricular%20activities.-,Attendance,regular%20and%20punctual%20class%20attendance.&text=UF%20Law%20policy%20permits%20dismissal,of%2012%20credits%20per%20semester.).

**Evaluations:** You are expected to provide feedback on this class through the GatorEval system. Believe me when I say that I do take seriously student comments and strive to make classes accessible and enjoyable. Because this is a new class, I especially seek your suggestions for improvement.

**Preferred Names and Pronouns**: It is important to the learning environment that you feel welcome and safe in this class, and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise.  I would like to acknowledge your preferred name, and pronouns that reflect your identity.  Please let me know how you would like to be addressed in class, if your name and pronouns are not reflected by your UF-rostered name.​ I welcome you to the class and look forward to a rewarding learning adventure together.

You may also change your “Display Name” in Canvas. Canvas uses the "Display Name" as set in myUFL.  The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison."   To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom.  This change may take up to 24 hours to appear in Canvas.   This does not change your legal name for official UF records and it likely will not affect the names I receive because I won’t be using Canvas for this class. Thus, please make the changes in Canvas and also notify me by email.

**Class Readings**

Week 1: Introduction and Property Rights Theories

This week we will discuss basic theories of property and law, including the labor theory, utilitarianism, neo-liberalism, civic republicanism, and personhood theory, so feel free to bring in any additional readings, concepts, ideas, or philosophies you want to discuss.

*Read pp. 29-51, 201-213, 305-313 in the Perspectives on Property Law book*

Week 2: Critiques of Traditional Property Rights Theories

This week we will study some of the more modern critiques of property rights theories. You will no doubt realize that many of the readings come from a neo-liberal, white, male perspective. In thinking about these critiques, think also about limitations in these critical perspectives.

*Read pp 16-29, 52-74, 149-164, 173-181 in Perspectives*

Week 3: Development, Exploitation, and the Tragedy of the Commons

This week we will study how resource ownership and exploitation has resulted in environmental degradation and overuse. We will talk about different theories of land ownership and stewardship, looking at indigenous people’s relations to land as well as theories of colonialism. Questions include how we provide for the needs of those whose livelihoods depend on fossil fuels and how different property rules lead to environmental catastrophe.

*Read pp. 99-131, 139-147, 181-199 in Perspectives*

Week 4: Environmental Law and Stewardship

This week will be the first presentation – Group 1.

*Read pp. 81-97, 396-407*

Week 5: Property Rights and the Person

This week we will examine the idea of property rights in the person, the body, products of the body, and physical labor, from slavery to embryos. Questions include how we have privatized health care, how we can offer some property protections to persons and their bodies, and how technology challenges our traditional view of autonomy.

Presentation by Group 2.

*Read pp. 1-15, 90-97, 235-242*

Week 6: Property Rights, the Body, and Technology

Presentation by Group 3

*Read pp. 131-139, 284-303, 419-429*

Week 7: Property and Systemic Racism

This week we will examine how property law drives systemic racism, from slavery to racial covenants to zoning to environmental justice and beyond. Private property has been a huge driver of the systemic racism in our institutions, from covenants to legacy scholars. Questions include how we might have to rethink property to begin to address the ways in which whiteness is about property.

Presentation by Group 4

*Read pp. 243-250, 273-284, 361-396*

Week 8: This week we will continue looking at the myriad ways in which racism is embedded in our property regime.

Presentation by Group 5

*Read Cheryl Harris, Whiteness as Property*

Week 9: Property Rights and Climate Change

This week we will examine the relationship between property rights and natural disasters and climate change, including the role of regulatory takings in mitigation efforts and heirs property problems in disaster relief. How do we address a global problem like climate change with private property constraints? Can we?

*Read pp. 409-419, 429-469.*

Week 10: Climate Change continued

Presentation by Group 6

*Read Wright, Disaster Law Handbook chapter*

Week 11: Property and Human Rights

This week we will examine the right to thrive, rights to a healthy environment, and other human rights in light of the vast inequalities in wealth distribution that is the result of neo-liberalism and capitalism. Questions for the week include how we ensure that all humans have their basic human needs met, including access to healthy drinking water and a healthy environment in a world with some of the largest wealth inequalities of centuries. What role do justice and morality play in property rights?

*Read pp. 148-170 & 222-247*

Week 12: International Implications of Private Property

What can we learn from other cultures’ treatment of property? Is property a fundamental human right?

Presentation by Group 7

*Read pp. 251-259, 273-284*

Week 13: Conclusion

This week we will bring our discussion back to where we started, whether private property continues to offer a viable model for human existence or whether we need to make some changes in light of population growth, globalization, and climate change.