The Politics of Law
Summer Session I 2020

Dr. Eric Stephen Snickars
esnickar@ucsc.edu
Tues, Thurs, 6-9:30 PM
Zoom

Zoom Office Hours: Tuesdays 1-2 PM

Course Description

In this course, we will explore the oftentimes inextricable relationship between law and politics. To what extent does "law" effectively solve social and political problems? To what extent can law effectively solve social and political problems? How might law be used as part of a larger strategy to effectuate social and political change? These are the basic questions that will guide our inquiries during the next ten weeks.

We will begin by considering the role(s) of law in U.S. society, as well as the liberal roots of the U.S. legal system. We will continue by exploring some major modern-day issues, including: (1) freedom of expression, particularly in the area of offensive speech; (2) (im)migration; (3) homelessness; (4) impeachment; (5) various aspects of U.S. election law. Your readings are all posted on Canvas; you need not purchase any books for this course.

Course Design and Goals

This is a Zoom online class, adapted from a live course that I’ve developed and changed considerably over the past several years. Over time, this course has morphed from a lecture course to a discussion course, as I’ve discovered the profound benefits of student-led learning. If you prefer a lecture course, you have several wonderful options in the Politics and Legal Studies departments; this, however, is not one of them.

In this course, we will develop our critical thinking and writing skills. Our course materials and reading assignments are designed to facilitate these goals. We will develop these skills by (1) writing 2-3-page response papers; (2) leading and participating in discussions on the readings and overall subject matter.

We will meet on Tuesdays and Thursdays at 6 P.M. However, Tuesdays could turn into shorter sessions. On Tuesdays, discussions will be based on your response papers. I will present your ideas (alongside my own, I’m sure), which means that you determine much of the trajectory of the class. Thursdays, we will have student-led discussions; for these classes, we will be meeting the entire period.

Grades
Each student is required to: (1) attend all Zoom meetings (points subtracted for missing class); (2) participate in classroom discussions (20%); (3) lead one 30-minute class discussion (20%); (4) write 4 response papers (40%); (5) write a take-home final exam (20%). **Failure to complete any one of these assignments will result in a failing grade.**

Please do not ask me to compute your grade. The percentages are listed above, so your guess is as good as mine.

**Office Hours**

I will hold office hours on Tuesdays from 1-2 on Zoom. They are “walk-in,” and I will see students in the order you appear. I will use the “waiting room” function.

If you absolutely cannot meet with me during office hours, please contact me so we can set up a meeting time. (Please understand that office hour times are the most convenient for me.)

**Response Papers**

One effective way to work on critical thinking is to write. To this end, you will write 500-750-word response papers, which will be due each Monday (beginning Week 2) by 6 PM. The reason they are due on Monday is so that I will have time to read and respond to them by class time the following day. **You must upload your papers in a .doc or .docx format so I can add comments to them.** Please double space and use a 12-pt. font.

Your responses must be based on the readings for the coming week; you will not receive credit for writing about readings that were already assigned and discussed. You may write about any of the readings assigned for the week.

I encourage you to perform some online research to determine how you may want to write your response papers. You might think of these as opportunities to present short arguments, e.g., make a brief and pointed critique of the reading. You might also see these as op-ed pieces, noting that such pieces are roughly the same length as your assignment. **What's important is that you make some sort of claim about the reading,** making sure to cite it with a brief parenthetical, e.g., (Scheingold 29).

You have great latitude on what you would like to address in your papers. If you’re stumped as to what to write about, assess the author’s argument. What is the author’s argument? Is the argument well supported with reliable evidence? What might the author have missed? The strongest papers will take offer critiques of the author’s main point(s).

I intend to provide feedback on your papers in an effort to make you all better writers. You will be assessed on argumentation, content, organization, support, and mechanics.
Please place your word count at the end of each paper. Your parentheticals do not count towards your word limit. Points will be subtracted for going beyond the word limit.

Class Presentation/Discussion

Students must sign up to lead one 30-to-40-minute class discussion. Basically, you have 30 minutes to lead the class, and you have the freedom to do this as you please, so long as it is discussion-oriented and focuses on the readings for the week. **You may not present on readings from previous weeks.**

You must provide your discussion questions 48 hours before you are scheduled to lead the class – by 6 PM Tuesday evening – as I will respond and critique your questions before you present them. Consider yourself “on call” for a 24-hour period, as you will want an adequate opportunity to respond to my comments. I will post your final questions on Canvas under "Discussion Questions" 24 hours before class – at 6 PM Wednesday evening. I consider this timeline to be a reasonable accommodation under the Americans With Disabilities Act; therefore, **failure to meet this timeline will result in subtraction of a full letter grade.** You are encouraged to meet with me during office hours before you present.

My suggestion is that you submit at least three questions to me, although this depends on the depth of the questions. You may submit more (and I will tell you which I prefer) if you like, or fewer if you feel sure of what you want to do. Fortunately, we have the time to get into some depth during our discussions, but be sure to be cognizant of time, as we need to get through 5 presenters per class period.

You will sign up to present a specific reading, and your presentation will focus on this. You may use supplemental materials, e.g., you may reference current events if you like. You may reference materials covered in past classes, but you cannot use this material as the basis of your presentation. Any attempts to simply focus on past material will negatively impact your grade on this assignment.

Signups on Canvas for your presentation/discussion will begin Friday, 6/26 at 8 AM. You will sign up via the "Calendar" tab. You must sign up by 5 PM, Wednesday, 7/1. If you have not signed up by this time, you will forfeit your presentation grade, which means you cannot pass this course.

Your grade consists of two parts: (1) the quality of your questions, which includes your responses to my comments; (2) your discussion itself. With this assignment, you will be assessed on your command of the assigned material. Remember that you are leading a discussion, which means you will likely ask and be asked follow-up questions; you must be prepared for this. When our discussion meanders, remember to steer the class back to our subject matter, so we can truly interrogate the ideas from the readings. You may be
creative, e.g., relating the reading to news regarding law and politics, so long as your points still address the assigned reading.

A "Disclaimer" on Debate

In this class, we will discuss many contentious issues, which will undoubtedly induce emotional responses at times. As a general rule, this classroom is not a safe space, nor is it a free speech zone. If you do not desire – or are otherwise uncomfortable with – debate and disagreement on contentious issues, you should consider taking another class. Legitimate viewpoints in this class consist of arguments supported by appropriate evidence. Insulting opinions will not be tolerated. Please let me know if you have any questions on this policy.

That being said, I reserve the right to cut off any discussion if I feel that it is getting inappropriate or too intense. Additionally, I reserve the right to temporarily create a free-speech zone or safe space when I believe an issue or situation demands it.

Classroom Policies

“Attendance” is required. I will take attendance every class via roll call. (This will also help me to get to know your faces.) If for some reason you must miss class, please notify me via e-mail.

Please arrive to class on time, as I do not tolerate lateness. Late arrivals will count as absences. If, for some reason, you cannot arrive on time – or are otherwise at risk of being late – please let me know ahead of time.

Whether during discussions or lectures, “raise your hand” and wait for me – or the discussion leader – to call on you before you speak. When I don’t enforce this rule, the class often devolves into chaos.

You are expected to be "fully present," avoiding all outside distractions, including but not limited to texting, the use of social media, and the crowdsourcing of notes. As I cannot actually police this, I’m asking you to simply honor it.

Please do not make audio or video recordings of this class without my permission, which I will likely grant. I will make and post audio recordings of each class session.

Classes will be discussion-oriented.

Academic Dishonesty

If you are caught plagiarizing or cheating in any other way, you will be subject to academic
discipline. In this course, please abide by the values of honesty, respect, and civility. Read and understand the university’s policies on academic integrity:

https://registrar.ucsc.edu/navigator/section1/academic-integrity.html

Plagiarism occurs when a writer fails to cite ideas or words that are not their own. All cases of plagiarism will be prosecuted per university policy. If you have any questions on this policy, please feel free to ask.

I have prosecuted offenses in the past and, unfortunately, I’m likely to do so again in the future. This class is an elective with a wait list, so please, if you’re not interested in doing the work, drop the course because there are many students eager to maximize their time, efforts, and money on this class.

Disability Accommodations

UC Santa Cruz is committed to creating an academic environment that supports its diverse student body. If you are a student with a disability who requires accommodations to achieve equal access in this course, please submit your Accommodation Authorization Letter from the Disability Resource Center (DRC) to me privately, preferably within the first two weeks of the quarter. At this time, I would also like us to discuss ways we can ensure your full participation in the course. I encourage all students who may benefit from learning more about DRC services to contact DRC by phone at 831-459-2089 or by email at drc@ucsc.edu.

In this class, I will do my best to honor the ideals of Universal Design. If you require an accommodation, please let me know by the end of the first week.

A Note on Adulthood and Personal Responsibility

I fully realize that the following paragraphs apply to a small number of students, so please don’t be insulted.

You are all adults, and I will treat you accordingly. This means that you are responsible for completing all requirements. I will not contact you if you miss classes and/or assignments. I will not double-check if you’ve turned your exams into Canvas in the proper formats.

Additionally, I will not compute preliminary grades to determine what you need in order to achieve a particular grade; the percentages are listed in the syllabus, so you can compute your grade at any time, meaning that your guess is as good as mine. If you ask me to compute your grade, I will assume that you haven’t read this syllabus – which is assigned reading – and I will make note of this for your participation grade.
**Reading Guidelines**

As you read all assignments, keep these big-picture questions in the back of your mind:

1. How is "law" deployed in efforts to solve political and social problems?
2. How effective is "law" as a strategy when it is deployed, i.e., to what extent does it help one side to "win"? How should we measure its effectiveness?
3. How should we evaluate media coverage of important issues regarding law and politics, particularly in the realms of election law, free speech, immigration, impeachment, and homelessness?
4. To what extent can law solve political and social problems we care about? To what extent should law be used?

Additionally, when reading, always ask:

1. If this an argumentative piece (e.g., an academic article or op-ed), what is this author's argument? More importantly, what is the question that the author is trying to answer?
2. What evidence does the author use to support their claims?
3. What evidence is missing? What are some questions or facts you would like investigated if you were trying to make the author's argument?
4. What counterarguments must the author contend with, and does the author successfully address them?
5. Is there another question raised by the issue/question and/or the argument's trajectory that you'd like answered?
6. Is the author asking the "wrong" question(s)?

**Assignments**

All assignments are on Canvas, unless otherwise specified.

**WEEK ONE**

6/23  Read Lon Fuller's "The Case of the Speluncean Explorers"

       Class Introduction

       Read Syllabus

6/25  Framing Law and Politics

       Read the Calavita chapters in the "Framing Law and Politics" folder.

       The Liberal Roots of the U.S. Legal System
In the "Liberal Roots" file, read:

"Locke and Hobbes."

6/26 – Sign-ups for discussion date open at 8 A.M.

WEEK TWO

6/30  The Efficacy of the U.S. Legal System

In the "Efficacy" file, read:

Shklar's "In Defense of Legalism"
Bernhabib's "Judith Shklar's Critique of Legalism"
Scheingold I and II

7/1  Sign up for discussion by 5 P.M.

7/2  The Politics of Homelessness

In the "Homelessness" file, read:

Williams' "The Politics of Homelessness in the United States"
*Martin v. City of Boise*

The Politics of Free Speech

In the "Free Speech" file, read:

Free Speech Case Collection 1

WEEK THREE

7/7  The Politics of Free Speech

In the "Free Speech" file, read:

Free Speech Case Collection 2
Free Speech Case Collection 3
Butler's *Excitable Speech*

7/9  The Politics of Free Speech

In the "Free Speech" file, read:
Free Speech Case Collection 4
Mackinnon's *Only Words*

**WEEK FOUR**

7/14 The Politics of Immigration

In the “Immigration” folder, read:

Ngai's "The Strange Case of the Illegal Alien"
Volpp's “Passports in the Time of Trump”

The Politics of Impeachment

In the “Impeachment” folder, read:

Whittington's “A Formidable Weapon of Faction? The Law and Politics of Impeachment”

7/16 Election Law

In the "Election Law" folder, read:

Baldwin's "Backsliding"
Election Law Case Collection 1

**WEEK FIVE**

7/21 Election Law

In the "Election Law" folder, read:

Voter ID Article TBA
Election Law Case Collection 2
Sunstein's "Equal Chance"
Election Law Case Collection 3

7/23 Election Law

In the "Election Law" folder, read:

Gerken’s "The Real Problem With *Citizens United*"
Election Law Case Collection 4
7/24  Final Exam released at time TBA

7/27  FINAL EXAM DUE TO CANVAS AT 11 PM.

Enjoy the rest of your summer!