

The Nature of Law

Political Science 179D
Philosophy 133
Crm/Law C100

Tu/Th 9:30-10:50am RH 104

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This course has two primary parts. In the first part we discuss a few influential accounts of what law is. In particular we will focus on how law is different from other social institution, and also how these accounts bear on the process of “interpretation” that is required of judges. Our last book of the first section, Ronald Dworkin's *Law's Empire*, discusses the process of interpretation in some detail. While reading this we will have the opportunity to discuss the oft-used distinction between “activist” judges and “judicially restrained” judges.

In the second part of the course, we will read a series of influential U.S. Supreme Court decisions. We will attempt to square the reasoning in these decisions with the framework for interpretation set out in the first half of the course. In this section half, we will look at court cases in three major areas, Equal Protection, Privacy, and War Powers. This last topic will allow us to look at one recent supreme court decision, *Hamdi v. Rumsfeld*.

Required Texts HLA Hart, *The Concept of Law*
Ronald Dworkin, *Law's Empire*
A Course Reader from Anteater Publishing

Course Requirements Midterm (40%)
Three short papers (15% each)
Attendance and **participation** in discussion sections (15%)

Reading Schedule

- April 3 Constitution Interpretation and the Nature of Law (Austin and the Command Theory)
- April 5 The Concept of Law Ch. 2-4 (“Laws, Commands and Orders”, “The Variety of Laws”, “Sovereign and Subject”)
- April 10 CL Ch. 5-6 (“Law as the Union of Primary and Secondary Rules”, “The Foundations of a Legal system”)
- April 12 CL Ch. 7 (“Formalism and Rule Scepticism”)
- April 17 Dworkin “The Model of Rules I” and Law's Empire Ch. 1 “What is Law”
- April 19 LE Ch. 2 through p. 73 (“Interpretive concepts”)
- April 24 LE Ch. 3 (“Jurisprudence Revisited”)
- April 26 LE Ch. 7 (“Integrity in Law”) (through 266)
- May 1 LE Ch. 9 (“Statutes”)
- May 3 LE Ch. 10 (“The constitution”)
- May 8 **Midterm**
- May 10 Equal Protection: Plessy, Brown
- May 15 Equal Protection: Reed, Craig
- May 17 Equal Protection: Romer
- May 22 Privacy: Griswold, Bowers
- May 24 Privacy: Lawrence **(PAPER #1 DUE)**
- May 29 War Powers: Selected Draft Law Cases
- May 31 War Powers: Ex parte Millikan, Korematsu **(PAPER #2 DUE)**
- June 5 War Powers: Hamdi
- June 7 War Powers: Hamdi
- June 13 **PAPER #3 DUE**