Fall 2011, Law 7393

Jurisprudence and Normative Political Theory

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We will begin with Hart's classic work, The Concept of Law, and then consider Dworkin's criticisms. Then we will make a detour to Rawls's liberal democratic theory; by doing so, we will place normative questions pertaining to public reason, equal liberty rights, distributive justice, and democratic forms of deliberation on the table. Returning to legal theory, we will consider Cover's theory of plural nomian fields. Dworkin's confidence in the judiciary raises serious questions about the role of judicial review in a liberal democratic society; we will consider the critical approaches of Rana, Waldron, Tushnet, and Post and Siegal in this regard. Finally, we will read several works from the critical race theory field; in the fall 2011 version of this course, we will concentrate on the writings of Charles Lawrence.

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Required reading and class schedule.

H.L.A.Hart
Class meeting numbers 1 and 2.
August 25, (no response papers) Sept. 15 (grp a)

Hart, The Concept of Law

(Class cancelled, Sept. 1 and 8. See below for makeup schedule.)

Dworkin
Class meeting number 3.
Sept. 22 (grp b)

Dworkin, Taking Rights Seriously

*** Sept. 29 4:30 : Please attend Professor Catharine MacKinnon’s lecture, Moot Court Room. We will discuss her lecture on October 6. See below for makeup schedule.) ***
Class meeting number 4.
October 6 (grp a)

Dworkin, *Law's Empire*

Rawls
Class meeting numbers 5 and 6.

October 18 (4:15-5:55, Room 146 (makeup session)) (grp b)


October 20 (grp a)

Rawls, *Political Liberalism* 212-254; and *Theory of Justice* 293-343

Recommended: *Political Liberalism*, 437-90

Cover
Class meeting number 7.
October 25 (4:15-5:55, Room 146 (makeup session)) (grp b)

Cover, "The Supreme Court, 1982 Term: Nomos and Narrative."

Cover, "Violence and the Word."

Ackerman
Class meeting number 8.
October 27 (grp a)

Bruce Ackerman, *We the People, Vol. I.*

Tushnet
Class meeting number 9.
Nov. 1 (rm tba, makeup session) (grp b)

Tushnet, *Taking the Constitution Away From the Courts."

Post and Siegel
Class meeting number 10.
Nov. 3 (grp a)
Post and Siegel, “Roe Rage: Democratic Constitutionalism and Backlash.”

Waldron
Class meeting number 11.
November 10 (grp b)


Lawrence
Class meeting number 12.
November 17 (grp a)

Charles Lawrence, “The Id, The Ego, and Equal Protection”

Charles Lawrence, “Unconscious Racism Revisited”

Rana
Class meeting number 13.
December 1. (grp b)

Aziz Rana, The Two Faces of American Freedom.

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Required and recommended reading.


