



Introduction to Legal Studies

Legal 250 - Spring 2007

Professor Thomas Hilbink

Tuesdays and Thursdays

Section 1: 1:00 - 2:15 p.m.

231 Herter Hall

Section 2: 2:30 - 3:45 p.m.

137 School of Management

www.umass.edu/legal/Hilbink/250

Course Overview:

This course explores the ways law shapes society and society shapes law. It takes as a starting point the belief that law does not simply exist on its own, independent of influences by people, politics, and social institutions. Rather, law reflects the context in which it is made and used. Further, we will look at many forms of law. Law is not simply what is in leather-bound tomes in a lawyer's office. Law is not simply what the U.S. Supreme Court says. Law is constituted in many forms and places: on the streets, in individual exchanges, in cultural practices, on television. Over the course of the semester, the course will explore definitions and concepts of law, the forms law takes and the forums in which it is shaped, the different ways that people understand law and the legal system, the ways injuries and disputes are understood and mediated, the goals and purposes of trials, and the concept and importance of rights in the United States and elsewhere.

Course Objectives:

- Develop a deeper understanding of the many faces of law, how law is shaped, how people think about law, the role of law in society, the intersection of law and politics, etc.
- Develop strong logical and critical thinking skills
- Improve analytical and persuasive writing skills

Faculty:

Professor Thomas Hilbink
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Teaching Assistants:

Section One: Anna Curtis
114 Gordon Hall
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Section Two: Brittnie Aiello
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Undergraduate Assistants:

Section One: Jared Iverson
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Section Two: Will Frank
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Office Hours:

We cannot stress enough how helpful and important office hours can be. Please take advantage of these times to clarify any questions you have about the course, to further discuss materials of interest, or to better understand class assignments. We're also available to discuss careers, life, the latest episode of *Law & Order SVU*, etc.

- Professor Hilbink
Thursday 10 to noon, and by appointment
- Anna Curtis
Thursday 2:30 to 4:30
- Brittnie Aiello
Tuesday noon to 2:00

T.A.s may change their office hours at some point during semester, so check course website if you are planning to go see them.

Schedule for Major Assignments:

March 6th, first paper due at start of class (after that to 110 Gordon Hall)

April 10th, second paper due at start of class (after that to 110 Gordon Hall)

May 15th, final examination in class

Deadlines for Other Materials:

Written Class Participation

Written responses to class participation questions must be turned in (in class) within a week after the class for which the questions were written

Extra Credit Assignments

Written responses to extra credit lectures and events must be turned in (in class) within a week after the event.

Course Readings:

We have gone to great effort to choose a set of readings that are interesting, help explain fundamental concepts covered in the course, or provide material to spur class debate and discussion. There may be what some consider *too much* reading. After looking over the syllabus, if you think you can't or won't do the reading, now is the time to look elsewhere for a class. This is not meant to scare you, just to make you aware that completing the readings will be essential to getting a good grade in this course. A college student blogger, Avi Zenilman (<http://www.slate.com/id/2130600/>), recently made the following excellent observation about reading for college classes:

In lectures at large universities, especially in the humanities and social sciences, class time is usually taken up by the broad outlines of the subject. The real learning occurs when we bear down and pore over the hundreds of pages assigned every week—the lecture I'm currently tuning out assigns about 3,000 pages of reading over the span of the semester—and when we attend small discussion sections with graduate students who go over what we've read. Any good grade-grubber knows that the trick to doing well on exams is knowing the reading, not what the professor said last week.

None of the assignments or exams will entail outside research thus allowing you to concentrate on that which you will have before you in three sources.

Books

- Bonsignore et al., *Before the Law* (8th edition, 2006)
 - Available at Food for Thought bookstore downtown Amherst.
- Ewick and Silbey, *The Common Place of Law* (1998)
 - Available at Food for Thought Bookstore.
 - You may be able to find used copies of this book for sale online as well. Try abebooks.com or alibris.com for starters. However, *don't* wait until the last minute to get the book. Last term some students waited until a few days before the final and found they couldn't get a copy.

Course Reader

- Available at Collective Copies downtown.

Website

- We maintain a website for this course on which we post a few readings. The schedule below lays out which readings are on the website.
- The web address is: <http://www.umass.edu/legal/Hilbink/250/readings.htm>
 - Note: the H in "Hilbink" must be capitalized

All non-website reading materials will be on reserve at the library as well.

Course Requirements and Expectations:

Requirements

- Timely completion and understanding of assigned readings
- Informed and thoughtful class participation
- One 3-4 page paper
- One 4-5 page paper
- One final examination

Expectations

We expect you to spend twice as much time out of class in preparation for class sessions as you do in class. Thus, with class taking 2 1/2 hours per week, you should be

spending five hours working on the course outside of class. This is an average, of course. It will not always take you 5 hours per week to do readings and prepare for discussion, but it will likely require more time when papers are due.

Before you decide that 7 1/2 hours per class is ridiculous, note that if you are a full-time student taking five classes, this means you are still spending less than 40 hours per week on class attendance and preparation. That's 37 1/2 hours – still less than a full-time job.

Grading:

Grades will be broken down as follows:

- Class Participation 15%
- First Paper 20%
- Second Paper 35%
- Final Exam 30%
- Extra Credit 0-10%

Grading Scale

Each assignment in the course will be given a grading scale. The final grades will be computed from the combination of your grades for each assignment. We do this so that we can set high expectations for your papers (please see section on paper for more specifics) while taking into consideration that this is an introductory course. For many of you, earning an "A" on the papers will require more effort than you have exerted in the past. Please keep that in mind over the course of the semester.

Class Participation:

There are three ways to earn participation points:

1) In-class Participation

Despite the fact that this is a big course, class participation remains important. In fact, it is what makes this class fun and interesting (at least for us). You all have different ways of thinking about the material. Sharing those points of view will, we hope, make you think about how others may think about the issues. Class participation can come in many forms. Insightful, informed comments that show engagement with the lecture, discussion, and readings are the most obvious form. Merely spouting-off with uninformed opinions unconnected to the readings will not help you, however. Such comments generally show that you haven't been doing the reading, so if you aren't prepared for class, stay quiet (unless called on). You may, of course, ask questions to help clarify readings or comments we make in lectures. You are not guaranteed a point of participation every time you speak. And you cannot receive more than one participation point per class meeting. We understand that speaking in class – particularly in front of over one hundred people – is difficult for some people. If this is the case, you can come to office hours (ours or the TAs) to discuss class materials. We keep records of such visits.

2) *Written Participation*

You can submit written comments to us if you are too shy to talk or can't make it to class for some reason. Respond in writing to the questions distributed for each class. We've posted "model" written participation on the course website. You'll either get one point of credit or nothing. You may turn in as many of these as necessary to get the maximum participation points (but no more).

3) *Web Discussion*

Another option is to post comments and participate in discussions on the WebCT bulletin board (go to <https://webct.oit.umass.edu/>). A substantive comment (see the first paragraph on class participation for a definition) on WebCT will be treated the same as a comment in class.

Grading Class Participation

You must distribute your participation evenly across the duration of the term. Thus, you may earn up to five points for participation in each "unit" of the class (unit one: classes 2-10; unit two: classes 11-19; unit three: classes 20-27).

Below is the grading scale for CLASS PARTICIPATION for the semester.

A	= 14+	C+	= 9
A-	= 13	C	= 8
B+	= 12	C-	= 7
B	= 11	D	= 5
B-	= 10	F	= 4 or lower

Papers:

We warn you at the outset (and you may have heard from others) that we are demanding graders, particularly on papers. We have high expectations for your papers because writing is one of the most essential skills you are expected to have upon graduation (see the article we've included at the front of the reader if you don't believe us). For those involved with the law, good writing is the difference between getting a job and not, between winning a case or not. Writing is the central form of communication in the law, and thus we emphasize it heavily here.

As a result, we will expect papers to have creative theses, coherent organization and to be edited very thoroughly before you turn them in. More specifically, that means we expect observation of basic rules of grammar, syntax, and style. We also expect you to turn in well-structured, well-corrected papers that clearly state a thesis, defend that thesis with supporting arguments and evidence from the readings, and demonstrate an understanding of the complexities of the issues we are dealing with the course. You might find Kate Turabian's book on writing helpful as a guide. Another good guide to writing is Strunk & White's *Elements of Style*.

Rare are the students who can complete an acceptable paper begun the night before it is due, so keep up with the readings as we go and give adequate time to reflect, outline, draft, and rewrite all papers. We will facilitate this for you by giving a great deal of lead time, distributing writing assignments well in advance of their due dates. *Due dates* are strict. Because we give lead time in distributing assignments, we will grant extensions only in cases of *documented* illness or death in the family. Penalties for late papers will be laid out in the paper prompts.

Plagiarism and Other Forms of Academic Dishonesty:

We have zero tolerance for plagiarism. Aside from the clichés about cheaters only cheating themselves, plagiarists are beyond contempt and should be treated as such. If you are caught plagiarizing you will automatically receive an F for the entire course and we will pursue disciplinary proceedings to the fullest extent allowed by University Policy. If you are unclear as to what constitutes plagiarism, consult the University Policies in the University Catalog: http://www.umass.edu/dean_students/code_conduct/acad_honest.htm If you still aren't sure, talk to one of us. If you're writing a paper and think something might be plagiarism, assume it is. Knowing the law of plagiarism and other forms of academic honesty is *your* responsibility. Ignorance of the law is no excuse.

Extra Credit:

You may earn up to ten percent of your total grade by attending talks/events related to law & society scholarship that will be presented around the Five College area this term. You must then write two-page reflection papers on the substance of the talk/event and relate it to themes and issues in the course. Each paper is equal to 5% of your total grade (and thus you can only get credit for two papers/talks).

Expectations

Do not simply write a summary of the talk (or article). We want you to engage with the substantive questions and issues raised by the talk, your reactions to it, and *most importantly* how you see the talk relating to themes in the course. In short, your paper should demonstrate that you can take the ideas discussed in class and apply them in a different context. Last term students made suggestions of talks to add to this list. We are open to suggestions. If there is a talk you would like to attend that you think is germane to the issues discussed in this class, please bring one of us a flyer, email, or other description of the event with time and place so that we may decide whether or not to include it on this list.

Grading extra credit

Your reflection papers will receive a check (A-), check plus (A), or check minus (B+) grade. You will not be able to do rewrites of these submissions.

- Check Minus: A paper that simply recounts the substance of the events or offers a synopsis of the content will receive a check minus
- Check: A paper that summarizes the content of the event and analyzes that content through the lens of the themes of this course will receive a check.

- Check Plus: A paper that summarizes the content of the event, analyzes the content through the themes of this course, and pulls in discussions of course readings to further explore themes from the event, lectures, and reading, will receive a check plus.

Course Syllabus

(subject to change; for updates check course website)

1. Tuesday, January 30th
Introduction and overview of course

UNIT I: WHAT IS LAW, HOW DOES IT WORK, AND WHY SHOULD WE OBEY IT?

1. Thursday, February 1st
What is law?
 - "Law in Theory and Practice," pp. 1-3 BEFORE THE LAW
 - "Functions of Law in Society" READER
 - Richard Abel, "What do we talk about when we talk about law?" READER
 - Austin Turk, "Law as a Weapon in Social Conflict" READER
2. Tuesday, February 6th
Who makes law? The people? Which people?
 - *I'm Just a Bill* (film – in class)
 - *Romer v. Evans*, pp. 174-179 BEFORE THE LAW
 - Where are you geographically in the system? Local, state, federal.
 - "Proposition 215," pp. 171-173 BEFORE THE LAW
 - The people decide, but how do the people *decide*?
3. Thursday, February 8th
Who makes law? To what extent is law shaped by those in power?
 - Clarence Darrow, "Address to the Prisoners in the Cook County Jail," pp. 225-232 BEFORE THE LAW
 - Mark Galanter, "Why the Haves Come out Ahead: Speculations on the Limits of Legal Change," pp. 81-89 BEFORE THE LAW
 - Catherine MacKinnon, "Rally Against Rape" READER
4. Tuesday, February 13th
Do/should people obey the law?
 - Martin Luther King, "Letter from Birmingham Jail," pp. 251-254 BEFORE THE LAW
 - Harrison Tweed, Bernard G. Segal, and Herbert L. Packer, "Civil Rights and Disobedience to Law" READER
 - *Don't Drive 55* (film – in class)
 - Available at:
http://www.salon.com/ent/video_dog/comedy/2006/03/30/55/index.html

5. Thursday, February 15th
Why do people obey the law?
 - Peter Kropotkin, "Law and Authority," pp. 158-163 BEFORE THE LAW
 - Peter D'Errico, "The Law is Terror Put Into Words," pp. 246-249 BEFORE THE LAW
 - Stanley Milgram, *Obedience* (film - in class)

6. Tuesday, February 20th
Why do people obey the law? (continued)
 - Tom Tyler, "Why do people obey the law?" READER

7. Thursday, February 22nd
Paper writing workshop

8. Tuesday, February 27th
How does law control society?
 - Herman Goldstein, "Confronting the Complexity of the Policing Function," pp. 265-272 BEFORE THE LAW
 - Jackie Campbell, "Walking the Beat Alone: An African American Police Officer's Perspective on Petite Apartheid," pp. 278-281 BEFORE THE LAW
 - Jerome Bruner, "Do Not Pass Go," *New York Review of Books*, September 25, 2003, pp. 105-11 READER

9. Thursday, March 1st
How does law control society? (continued)
 - *Florida v. Bostick*, pp. 293-299 BEFORE THE LAW
 - Jeffrey Rosen, "The Watchful State" WEBSITE
 - Photo of the Panopticon to begin the discussion

Paper One due at the start of class on March 6th
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UNIT II: CRITICAL PERSPECTIVES ON FORMAL LAW: The meaning of rights, the production of legal knowledge, and the concept of legal pluralism

10. Tuesday, March 6th
What are rights?
 - Laura Beth Nielsen, "The Work of Rights and the Work Rights Do: A Critical Approach," READER
 - Lisa Hajjar "Human Rights," READER

11. Thursday, March 8th
What do you have when you "have" a right?
 - *Brown v. Board of Education* READER
 - Charles Payne, "The Whole United States is Southern" READER

- Look back at *Bostick* (class 9)

12. Tuesday, March 13th

Rights during Wartime

- *Korematsu v. United States* READER
- Ronald Takaki, "The Myth of Military Necessity," *Strangers from a Different Shore* READER
- Joseph Margulies, "A Prison Beyond the Law" READER

13. Thursday, March 15th

The Production of Legal Knowledge. How does law know?

- Frank, "The Fight theory versus the Truth Theory," pp. 375-380 BEFORE THE LAW

14. Tuesday, March 20th & Thursday, March 22nd

No class – Spring Break

15. Tuesday, March 27th

The Production of Legal Knowledge. How does law know?

- *Twelve Angry Men* (film – in class)

16. Thursday, March 29th

The Production of Legal Knowledge. How does law know?

- Conclusion & class discussion of *Twelve Angry Men*
- Dooley, "Our Juries, Our Selves: The Power, Perception, and Politics of the Civil Jury," pp. 450-453 BEFORE THE LAW
- Lawrence, "The Id, the Ego, and Equal Protection," pp. 460-464 BEFORE THE LAW

17. Tuesday, April 3rd

The Concept of Legal Pluralism

- Sally Engle Merry, "Colonial and Postcolonial Law" READER
- Mitchell Dunier, *Sidewalk* READER

18. Thursday, April 5th

Law in other cultural contexts

- *Little Injustices* (film – in class)
- Laura Nader, "The Case of the Spilled Chilies," pp.89-90 BEFORE THE LAW

Paper Two due at start of class on April 10th

UNIT III: LEGAL CONSCIOUSNESS

19. Tuesday, April 10th

How do people think about the law? The meaning of legal consciousness in everyday life

Read in class:

- Franz Kafka, "Before the Law," pp.xiii-xiv BEFORE THE LAW

20. Thursday, April 12th

Legal consciousness and legal education

- Duncan Kennedy, "Legal Education and the Reproduction of Hierarchy," pp. 351-359 BEFORE THE LAW
- Patricia Williams, "Diary of a Law Professor," pp. 360-367 BEFORE THE LAW

21. Tuesday, April 17th

No class – UMass Monday Schedule

22. Thursday, April 19th

Gender and race and legal consciousness

- Michael, Musheno "Legal Consciousness on the Margins of Society: Struggles Against Stigmatization in the AIDS Crisis" READER

23. Tuesday, April 24th

Law and legal consciousness in everyday life

- *Common Place of Law*, Chapters 1 and 2

24. Thursday, April 26th

Law and legal consciousness in everyday life

- *Common Place of Law*, Chapter 4

25. Tuesday, May 1st

Law and legal consciousness in everyday life

- *Common Place of Law*, Chapter 5

26. Thursday, May 3rd

Law and legal consciousness in everyday life

- *Common Place of Law*, Chapter 6

27. Tuesday, May 8th

Summary and review session on legal consciousness

28. Thursday, May 10th

Study Day – office hours but no class

29. Tuesday, May 15th

Final exam in class