

Legal Studies 190.2: Seminar on Topics in Law & Society - Equality and Democracy
Spring 2016
Fridays, 10-12
238 Kroeber Hall

Instructor: Prof. Sarah Song

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Office hours: Fridays 2:30-4 or by appointment. If you would like to meet with me during office hours, please email me in advance to arrange a specific time. I will also send you detailed walking directions to my office (422 North Addition) as it's very hard to find.

Course Description

In this course we will examine some key concepts and topics in political and legal theory through close reading of texts. In the first half of the semester, we will focus on theories of *equality* and in the second half, theories of *democracy*. Some of the questions we will pursue include: What is equality? Is it about ensuring a fair distribution of things, a certain kind of relationship or standing that people have to each other, or something else entirely? Which kinds of inequality are objectionable and why? How should we conceive of equality across racial and gender lines? What is democracy? Is it about preference aggregation, majority rule, deliberation, social equality, or something else? What is the relationship between democracy and rights?

In addition to reading and analyzing theoretical texts, another objective of this seminar is to develop your writing skills. You are expected to produce a 6-8 page final paper that demonstrates clear thinking, develops a persuasive argument of its own, and is a polished piece of writing. This is a lot to achieve in one semester and the pace will be unavoidably intense. In the first half of the semester, you will complete short assignments to develop your critical thinking skills. In the second half of the semester, we will embark on a series of building-block writing assignments that will help you produce the final paper.

Prerequisites and Enrollment

This is an upper-level undergraduate seminar in political and legal theory. The course presupposes no prior coursework in political or legal theory, but those unaccustomed to reading philosophical texts should allot sufficient time to complete the readings.

Readings

Most of the readings will be on bCourse. You should purchase or borrow these books:

Rousseau, *On the Social Contract* (Hackett, 1988)

John Rawls, *A Theory of Justice* ([1971] 2005, orig. ed.)

Robert Dahl, *Democracy and Its Critics* (Yale, 1989)

No Laptops in Class

To minimize distractions and maximize engagement in seminar discussion, the use of laptops is not permitted. You may bring tablets (iPad, Kindle) to class in order to refer to the readings. Please purchase a notebook to write down your short assignments and for taking notes in class. If you absolutely must use a laptop in class, please speak with Professor Song.

Course Requirements and Grading

- Preparation (short assignments), Attendance, and Participation (30 points):
Complete each week's readings and short assignments and come to class prepared to discuss them. I will call on some of you at the beginning of every class to share your responses to the assignments. Please remember *quality* of participation is just as, if not more, important than quantity.

- Writing Assignments and Presentation (70 points):

"Easy reading is damn hard writing." –Nathaniel Hawthorne

- Identify a topic (5 points): Select one topic from the list of topics provided to you. In one paragraph, describe your initial thoughts on how you might approach the topic. Be prepared to discuss your ideas with the class.
- Thesis statement and paper outline (10 points): In 1-2 pages, write down your thesis statement and prepare an outline of your paper. Upload to bCourse.
- Introductory paragraph (5 points): Draft your introductory paragraph and upload to bCourse.
- Peer evaluation of paper drafts (10 points): Complete a draft of your 6-8 page paper. Exchange drafts with a classmate (assigned by Prof. Song). Follow instructions on how to critique a peer's work and write a letter to your classmate with suggestions for improvement (details below).
- Presentation for class (10 points): Prepare a 10-minute presentation of your paper for the class. You should explain your thesis statement, the key points of your argument, and the conclusions you reached. We will devote the last two seminar meetings to your presentations.
- Final draft (30 points): Revise and finalize your paper for submission. It should be double-spaced, in 12-point *Times New Roman* font, and have one-inch margins. It is due on **May 6.**

Schedule and Readings:

EQUALITY

January 22: Introductions and the idea of equality

Aristotle, *Nicomachean Ethics*, Book V.3 1131a-1131b

Gosepath, Stefan, "Equality," *Stanford Encyclopedia of Philosophy* (2011), section 2.1-2.4

Bernard Williams, "The Idea of Equality" (1962), reprinted *In the Beginning was the Deed*, 97-114

Assignment: In your notebook, write down *in your own words* what you take to be the central point of 1) the Aristotle reading and 2) Williams's essay. Write no more than 2-3 sentences for each.

January 29: Rawls's liberal egalitarian theory of justice

John Rawls, *A Theory of Justice* (1999), sections 1-5, 11-14, 22, 24-26, 29

Assignment: Imagine that you have to explain to someone who has never read Rawls before what his theory of justice boils down to, in one short paragraph, and how it is connected to the idea of *equality*. Reflect on this and talk about it with a friend or two, and then write down your paragraph in your notebook.

February 5: A pluralistic conception of equality: Walzer's 'complex equality'

Michael Walzer, *Spheres of Justice*, ch. 1, 3-4, 8

Assignment: What makes Walzer's theory of equality "complex"? In one paragraph, write down an example of a social good that Walzer discusses and how it should be distributed. What do you think of Walzer's view on the distribution of this particular good you have selected?

February 12: Equality and personal responsibility

Ronald Dworkin, "What is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs* 10:4 (1981): 283-345 (reprinted in *Sovereign Virtue: The Theory and Practice of Equality* (2000), ch. 2)

Elizabeth Anderson, "What is the Point of Equality?" *Ethics* 109 (1999): 287-337

Assignment: In one paragraph, write down, in your own words, what equality means to Dworkin. What's wrong with Dworkin's view, according to Anderson?

February 19: Gender and equality

Carol Gilligan, "Moral Orientation and Moral Development" (1987), in *Theorizing Feminisms*

Martha Nussbaum, "Human Capabilities, Female Human Beings" (1995), in *Theorizing Feminisms*

Catharine MacKinnon, "Difference and Dominance: On Sex Discrimination," *Feminism Unmodified* (1987), 32-45

Assignment: These three authors have been interpreted as representing three distinct theories of feminism: difference feminism, equality feminism, and dominance feminism. In a paragraph, write down, in your own words, the basic idea of each of their theories.

February 26: Race and equality

Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review*, 43(6) (1991), from *Theorizing Feminisms*

Derrick Darby and Argun Saatcioglu, "Race, Justice, and Desegregation," *Du Bois Review* 11:1 (2014): 87-108

Assignment: Answer these questions in your notebook, writing no more than one paragraph for each:

- 1) On the face of it, Crenshaw's article focuses on differences between women (racial differences in particular) rather than on sameness. In what sense, then, can Crenshaw's piece be read as an example of sameness/humanist feminist thinking?
- 2) What is the ideal of colorblind justice that Darby and Saatcioglu discuss? What is their central criticism of this ideal?

March 4: The value of equality

Harry Frankfurt, "Equality as a Moral ideal," *Ethics*, vol. 98, no. 1 (1987): 21-43 excerpt

T.M. Scanlon, "When Does Equality Matter?" (2004)

Assignment: Answer these questions in your notebook, writing no more than one paragraph for each:

- 1) Frankfurt argues that equality in itself is not a moral ideal we should strive for. Why not?
- 2) What are the circumstances in which equality matters, according to Scanlon?

DEMOCRACY

March 11: Democracy as collective self-rule

Rousseau, *Social Contract*, Bk 1, ch. 1, 5-8; Bk 2, ch. 1-7; Bk 3, ch. 1, 4, 12-17; Bk 4, ch. 1-3

Assignment: Rousseau's aim is to show when political rule is legitimate. His answer is the social contract. In the course of laying out his theory, does Rousseau strike you as a democrat, i.e. someone who advocates a democratic form of government? Why or why not?

March 18: Democracy as a fair procedure of aggregation

Robert Dahl, *Democracy and Its Critics* (1991), Introduction, ch. 6-13, 15, 20-21

Assignment: Identify a topic -- Select one topic from the list of topics provided to you. In one paragraph, describe your initial thoughts on how you might approach the topic. Upload your paragraph to bCourse by 5pm **Thursday 3/17**. Be prepared to discuss your ideas with the class.

March 25: No class – Spring Break

April 1: No class

Assignment: Confirm your paper topic selection. If you are going to change topics, this is the time to do it. Once you have settled on a topic, get a head start on next week's assignment of developing a thesis statement and paper outline.

April 8: Deliberative democracy

Joshua Cohen, "Deliberation and Democratic Legitimacy," in *The Good Polity: Normative Analysis of the State* (1989), 17-34

Lynn Sanders, "Against Deliberation," *Political Theory* 25: 3 (1997): 347-376

Assignment: Thesis statement and paper outline -- In 1-2 pages, write down your thesis statement and prepare an outline of your paper. Upload to bCourse by 5pm **Thursday 4/7**.

April 15: Democracy, rights, and judicial review

Ronald Dworkin, *Freedom's Law: The Moral Reading of the American Constitution* (1996), Introduction (pp. 1-35)

Assignment: Introductory paragraph -- Draft your introductory paragraph and upload to bCourse by 5pm **Thursday 4/14**.

April 22: In-class presentations of student papers (9 students will present)

No reading. Intensive writing and revision.

Assignments:

--Prepare a 10-minute presentation of your paper for the class (only half the class will give presentations on 4/22). You should explain your thesis statement, the key points of your argument, and the conclusions you reached. You are welcome to read a part of your paper that gets to the heart of your argument or you can summarize the central points. You are welcome to provide a one-page handout to everyone in class if you like (not required).

--Continue working on your paper drafts.

April 29: In-class presentations of student papers (9 students will present)

No reading. Intensive writing and revision.

Assignments:

--If you didn't do this last week: Prepare a 10-minute presentation of your paper for the class. You should explain your thesis statement, the key points of your argument, and the conclusions you reached. You are welcome to read a part of your paper that gets to the heart of your argument or you can summarize the central points. You are welcome to provide a one-page handout to everyone in class if you like (not required).

--Peer evaluation of first drafts (everyone must do this): Prepare a first draft of your 6-8 page paper. Exchange paper drafts with a classmate (assigned by Prof. Song). Follow instructions (to be provided by Prof. Song) on how to critique a peer's work and write a letter to your classmate with suggestions for improvement. Upload your letter to bCourse by **Thursday 4/28**.

Optional: In addition to emailing a letter to your classmate, you can arrange to meet with your classmate to talk about places they are struggling and help them brainstorm possible solutions, and then trade roles. If you do meet in person, send Prof. Song an short email summarizing what you discussed.

--Revise and finalize your paper for submission. It should be double-spaced, in 12-point *Times New Roman* font, and have 1-inch margins.

May 6: Final drafts due

Upload the final draft of your paper to the bCourse folder titled “Final drafts”