

As of February 16, 2016

**Reading and Composition in Connection with Law: Innovation in the Public Sector  
Legal Studies R1B  
Spring 2016**

M, W, F 12-1  
78 BARROWS

Adam Hill  
[adh@berkeley.edu](mailto:adh@berkeley.edu)

Wed: 1:30-3pm, Café Strada

**About the Class**

This course is designed to fulfill the second half of the Reading and Composition requirement. Students will develop their skills at critical reading, writing, and analysis, and will complete a series of essays culminating in research papers relating to law, legal actors, and legal institutions, among other topics. Emphasis will be placed on the process of writing, including developing research questions, constructing an argument, and revising for content and style.

Substance-wise, the course will address three main questions: (1) We tend to take the existence of government for granted. Why, though, do fund and support governments? In other words, what are the purposes and aims of government? (2) Given the purposes of government, what *tools* are available to governments to achieve those purposes? By way of analogy: If your aim is to write a research paper, you have tools like MS Word, Pages, Google Docs, LaTeX, and so forth. Depending on your goals, constraints, and environment, some of these tools will be better than others. Likewise, governments have various tools at their disposals. In part 2, we will try to get a handle on what those tools are, and how well they work. (3) In this final section, we will think about ways to improve the tools governments use.

**Required Text**

Will Kymlicka, CONTEMPORARY POLITICAL PHILOSOPHY: AN INTRODUCTION (“CPP”). There are two versions of the book; either version is fine. Other materials will either be available online (link in syllabus) or posted in pdf to bCourses.

**Grades**

*Project 1* – 45% total

Outline – 5% (02/22)  
Draft 1 (around 2,000 words) – 20% (03/14)  
Draft 2 (around 3,000 words) – 20% (03/28)

*Project 2* – 45% total

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Outline – 5% (04/04)

Draft 1 (around 2,500 words) – 20% (04/22)

Draft 2 (around 3,500 words) – 20% (05/06)

*Reading and Participation Journal* – 10% total (due 05/11, 6pm) (around 1,500 words)

Brief descriptions of helpful in-class presentations

Brief descriptions of workshop activity (including critical commentary)

NB: If you are unhappy with a grade, you may submit the work to the instructor for an appeal. You must accompany the work with a one-page (maximum) statement of the grounds for your appeal.

## **COURSE OUTLINE**

### **Week 1 (Jan. 20 – 22): Introduction**

Wed, 01/20: Introductory meeting

Discussion of course objectives, materials, and requirements.

Fri, 01/22: The Promise and Practice of the Administrative State

NEW YORK TIMES, [Health Site Woes Undermine Obama's Vow on Government](#)

Optional: Background reading on the Affordable Care Act

Dept. of Health and Human Services, [Key Features of the Affordable Care Act](#)

## **PART ONE: THE PURPOSES AND GOALS OF GOVERNMENT**

### **Week 2 (Jan. 25 – Jan. 29): The State of Nature**

Mon, 01/25

Lon Fuller, *The Case of the Speluncean Explorers*

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Wed, 01/27

NEW YORK TIMES, [Desperate for Slumber, Homeless Encounter a ‘Sleep Mafia’](#)

Optional: Anthony T. Kronman, *Contract Law and the State of Nature* (excerpts)

Fri, 01/29

Workshop on readings

**Week 3 (Feb. 1 – Feb. 5): The Hobbesian Solution and the Maximal State**

Mon, 02/01

Thomas Hobbes, *LEVIATHAN* (excerpts)

Wed, 02/03

CPP, Ch. 2, Section 1 (Two Attractions) and Section 4 (Two Arguments for Utility Maximization)

Optional: Nozick on the “Experience Machine”

Fri, 02/05

Peter Singer, [The Why and How of Effective Altruism](#)

**Week 4 (Feb. 8 – Feb. 12): The Minimal State and Rights Protections**

Wed, 02/10

John Locke, *SECOND TREATISE OF GOVERNMENT* (excerpts)

Optional: NEW YORK TIMES, [Welcome to Liberland, the World’s Newest Country](#)

Fri, 02/12

CPP, Ch. 4, Sections 1 and 2

**Week 5 (Feb. 15 – Feb. 19): Liberal Equality**

Wed, 02/17

John Rawls, *A THEORY OF JUSTICE* (excerpts on Original Position)

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Fri, 02/19

CPP, Ch. 4, Sections 1 – 3

**Week 6 (Feb. 22 – Feb. 26): Communitarianism**

Mon, 02/22:

Alasdair MacIntyre, AFTER VIRTUE (excerpts on Nozick and Rawls)

Stanley Hauerwas, FIRST THINGS, [A Communitarian Lament](#)

Wed, 02/24:

CPP, Ch. 6, Sections 1 and 2

Fri, 02/26: Communitarianism Wrap-Up

**PART TWO: TOOLS TO ACHIEVE PURPOSES**

**Week 7 (Feb. 29 – Mar. 4): Legal Positivism**

Mon, 02/29:

H.L.A. Hart, *Positivism and the Separation of Law and Morals*, Harvard Law Review

Wed, 03/02:

Frederick Schauer, *Was Austin Right After All? On the Role of Sanctions in a Theory of Law*

Fri, 03/04:

**Week 8 (Mar. 7 – Mar. 11): Natural Law theory**

Mon, 03/07: Robert P. George, [Natural Law](#)

Notre Dame website, [Renowned legal scholar and philosopher delivers public lecture](#)

Wed, 03/09: John Finnis, PUBLIC DISCOURSE, [The Profound Injustice of Judge Posner on Marriage](#)

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Fri, 03/011

**Week 9 (Mar. 14 – Mar. 18): Soft Paternalism**

Mon, 03/14: Sunstein and Thaler, NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS, Introduction, Ch. 1, 2, and 4.

Wed, 03/16:

*Ibid.*, Chapters 5, 8, 14, and 16.

Fri, 03/018

*SPRING BREAK: Mar. 21 – Mar. 25*

**Week 10 (Mar. 28 – Apr. 1): Private ordering as governmental tool**

Mon, 03/28:

E. Ostrom, GOVERNING THE COMMONS: THE EVOLUTION OF INSTITUTIONS FOR COLLECTIVE ACTION, Ch. 1

Optional: Ellen D. Katz, MICHIGAN LAW REVIEW, [\*Private Order and Public Institutions\*](#)

Wed, 03/30:

Ostrom, *id.*, Ch. 2

Fri, 04/01

**Week 11 (Apr. 4 – Apr. 8): Interlude: Criteria for Optimal Instrument Choice**

Mon, 04/04:

Stephen Breyer, REGULATION AND ITS REFORM, Chs. 1, 2

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Wed, 04/06:

Michael C. Munger, ANALYZING POLICY, Ch. 1

Fri, 04/08

**Week 12 (Apr. 11 – Apr. 15): Experimentation and “Smarter” Policy**

Mon, 04/011:

Noveck, Ch. 5

Optional: Theodore Lowi, THE END OF LIBERALISM: THE SECOND REPUBLIC OF THE UNITED STATES, Introduction and Ch. 1

Wed, 04/13:

Tetlock, SUPERFORECASTING: THE ART AND SCIENCE OF PREDICTION, Chs. 1, 2, 12

Optional: Tetlock, ON POLITICAL JUDGMENT, Ch. 1

Fri, 04/15

**Week 13 (Apr. 18 – Apr. 22): Talent, Technology, and Funding (if time permits)**

Mon, 04/18: TBD

Wed, 04/20: TBD

Fri, 04/22: TBD

**Week 14 (Apr. 25 – Apr. 29): Conclusion**

Mon, 04/25

Wed, 04/27

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Fri, 04/29

**Reading/Review/Recitation Week:** Monday, May 02 2016 -- Friday, May 06 2016

**University-wide Final Examinations:** Monday, May 09 2016 -- Friday, May 13 2016

**Spring Semester Ends** --- Friday, May 13 2016.