**LS 100: Foundations of Legal Studies**

Spring 2024

Lectures: Anthropology and Art Practice Building room 160 on MWF from 10:00am-11:00am

Discussion 101: Dwinelle Hall room 235 on Mon from 4:00pm-5:00pm

Discussion 102: Dwinelle Hall room 206 on Tues from 3:00pm-4:00pm

Discussion 103: Hildebrand Hall room 56 on Wed from 2:00pm-3:00pm

Discussion 104: Dwinelle Hall room 235 on Fri from 9:00am-10:00am

*Teaching Team*

Professor

Kyle DeLand (he/him)

[delandks@berkeley.edu](mailto:delandks@berkeley.edu)

Graduate Student Instructors (GSIs)

Kyneshawau Hurd (Dis 101, Dis 102)

[Kyneshawau@berkeley.edu](mailto:Kyneshawau@berkeley.edu)

Giselle Mendoza (Dis 103, Dis 104)

[gisellemendoza@berkeley.edu](mailto:gisellemendoza@berkeley.edu)

*Professor Office Hours*Office hours are an excellent opportunity to get to know the teaching team better and to seek our advice, discuss grades, or work through course difficulties. In this syllabus, I have noted topics well suited to office hours discussion.

Days/Times: Tuesdays 11am-1pm; Wednesdays 12pm-2pm; by appointment.

Please sign up at this [link](https://www.wejoinin.com/sheets/ggghu) or arrange an appointment by email.

Location: (1) At Café Zeb, inside Berkeley Law School, or (2) via Zoom (permanent link under the bCourses -> Zoom tab) if arranged my student via email or indicated on Wejoin.

*Important Dates*:

First Class: Wed, 1/17

Topic Proposal: due Fri 2/23 by 11:59pm

Annotated Bibliography: due Fri 3/8 by 11:59pm

Law on the Books draft: due Fri 3/22 by 11:59pm

Law in Action draft: due Fri 4/12 by 11:59pm

Last Class & Final Draft Research Paper due: Fri, 4/26 by 11:59pm

Final Exam: Tues 5/7, 3pm-6pm

Semester End & Post to Class Blog Due: Fri, 5/10

No Lecture:

Mon 2/19 (President’s Day)

Fri 3/1 (Research Day)

Mon 3/25 (Spring Break)

Wed 3/27 (Spring break)

Fri 3/29 (Spring Break)

Mon 4/22 (Writing and Editing Day)

**Synopsis:**

Law touches many aspects of human experience. But how does law *actually* operate? What is the relationship between the “law on the books” and the “law in action?” How does this relationship shed light on social inequality, social power, and the possibilities for social change? How has law changed over time? To answer these questions, we begin the session by exploring some basics about law and legal systems in the United States. We then turn to multiple, classic theories of law in society. Each of these ways of seeing, or analytic lenses, yields very different pictures of what law is, what it does, and how it influences and is influenced by society. In the next part of the course, we draw on these theories to understand the interplay of social conflict with disputing, policing, and punishment. The final part of the course explores the roles of law in creating, perpetuating, and potentially solving big problems facing the United States.

This course examines legal language, processes, and actors in their social context in the United States through time. By the end of this course you should be able to:

1. *show* how scholars have explained the classic tension between “law on the books” and “law in action” and *do* this kind of analysis yourself;
2. critically *evaluate* criminal, civil, and constitutional legal processes and their histories; and
3. *explain* the roles of law in shaping society’s practices and beliefs through time.

**Grades:**

All grades will be posted to bCourses. Major assignments will have rubrics provided in advance. Grading will be done by the GSI’s and they will provide you with more details throughout the semester.

You may inquire about your overall grade or individual assignment grades at any time, though your first stop should be with the GSI before discussing a grading matter with the Professor. This is a good topic for office hours.

Regrade Policy: You may appeal to the teaching team for a “regrade” on an essay or exam provided that you submit a paragraph explaining your reasoning with specific references to your own work and the rubric.

*Distribution*

Discussion Section Attendance and Participation: 20% of course grade

Research Project: 50% (total – breakdown below under “Research Project”)

Final Exam: 30%

**Readings**:

All text-based readings can be found as PDFs under the “Files” tab on our bCourses page, organized by weekly folders. Podcast assignments are linked below in the Schedule and can be found for free on podcast apps like Spotify or Apple Podcasts. Written transcripts will be provided under the Files tab. Readings should be completed before the lecture for which they are listed.

Please contact the Professor by email if you have problem accessing or using a PDF or file for our course.

*Optional Readings*: Some weeks I will list optional secondary or primary source readings. You may find these sources helpful but they will not be tested directly. Dive as deep down the rabbit holes as you like!

*Difficulty:* Some of the readings in this course, especially court cases, may prove challenging. This is normal. We will discuss some strategies for reading and taking notes but please speak to the GSI or the Professor if the readings routinely prove difficult and overly time-consuming. This is a good topic for office hours.

**Writing:**

*Word Limits:* Some written assignments have a word limit. This limit *excludes* citations. You may exceed the limit by 100 words before grade penalties will be applied. Note: 250 words roughly translates to 1 page.

*Formatting & Citations:* All writing assignments can be written in Microsoft Word (free Cal download, [here](https://software.berkeley.edu/microsoft)) or converted to a .docx format if written in Pages, Google Docs, or another word processor.

* Format: Please use Times New Roman, size 12 font, double spacing, and 1-inch margins. Please include a title, the word count, and number your pages in the header. Your work should be proofread for errors.
* We will cover how to do this in class. If you’re unsure *how* to cite something, then try your best and include the author’s name, date, and page number. An incorrect citation will get a note from the GSI about how to fix it but will not affect your grade; *failing* to cite ideas or words that are not your own *will* affect your grade.

*Difficulty:* If you have difficulty with the writing assignments please bring it up with the teaching team. This is a good topic for office hours. You might also consider reaching out to the [Student Learning Center Writing Program](https://slc.berkeley.edu/writing).

*Academic Honesty:* All work submitted must reflect your own work and the ideas and quotes of others should be cited. Your work will be analyzed by Turnitin software.

*Large Language Models (AI Chatbots)*: In general, I would discourage you from using AI language models like ChatGPT, for reasons stated below. However, should you find these tools useful, for translation for instance, keep the following in mind.

You *must* substantially edit, revise, and check the work. Treat any AI-generated text as a *very* rough draft. For reasons of:

* Honesty: The submitted assignment *must* be substantially your own and not AI-generated text.
* Quality: My experience with ChatGPT suggests that, unedited, it will produce a “C”-quality undergraduate essay (at best).
* Falsehoods: Large Language Models can “hallucinate” and make up facts and even court cases. See this [video](https://www.youtube.com/watch?v=oqSYljRYDEM&ab_channel=LegalEagle) on how this has gone wrong in legal settings. Submission of an assignment with such obvious falsehoods *will* be considered evidence of academic dishonesty by the teaching team and result in a grade of 0 for the assignment.

**Research Project:**

*Description:* The distinction between written laws and how those laws work in practice is one of the touchstones for the study of law in society. The intent of this multi-part assignment is to allow you to investigate a historical or contemporary legal rule – a statute, a regulation, a court decision, part of a constitution, etc. – that interests you and to find out how that rule has actually worked.

You will write (across multiple drafts) a two-part scholarly blog post to be posted to the course blog. (Note: you may use a pseudonym to post on the public-facing blog.) You will not be allowed to duplicate the topic of existing blog posts, which you can read here: <https://foundationsoflawandsociety.wordpress.com/>.

That means you will have to work harder for part one of the project, the topic proposal, to find a legal provision that has not yet been explored by LS 100 students.

* Topic Proposal (5% course grade) – due Fri 2/23 by 11:59pm
* Annotated Bibliography (5%) – due Fri 3/8 by 11:59pm
* Law on the Books draft (max 800 words) (10%)– due Fri 3/22 by 11:59pm
* Law in Action draft (max 1200 words) (10%)– due Fri 4/12 by 11:59pm
* Final Draft (max 2000 words) (15%)– due Fri 4/26 by 11:59pm
* Post to class blog (5%) –due 5/10 by 11:59pm

**Other Course Policies:**

*Contact with the Teaching Team*: Please correspond with the teaching team by email. We will endeavor to respond to all weekday emails within 24 hours. However, this does not extend to weekends – do not expect a reply to your 9pm Friday email until the following Monday morning.

*Disabled Students’ Program Accommodations*: All DSP accommodations will be honored and supersede any and all course policies when called for in the letter. Do not hesitate to reach out with questions or concerns to myself, the GSIs, or the [DSP office.](https://dsp.berkeley.edu/)

*Respectful Classroom Environment*: This class contains discussion of personal and politically charged topics. This is made more difficult by the current national political climate; however, bullying will not be tolerated.

Please keep the following in mind when engaging in our classrooms together *and* outside the classroom on bCourses, Discord, etc.:

* Normative versus Positive Statements: Most of the time, we will be discussing *positive* or analytical questions like “Why did the Supreme Court decide X case the way they did?” and not *normative* or value-based questions like “How *should* the Supreme Court have decided X case?” Understanding why the Supreme Court decided a case one way does not imply endorsement of that decision.
* Regard for Others: Your own experience and understanding does not reflect the universal experience of others in our class. Be respectful and responsive in terms of language usage, tenor, and comportment. Conversely, please *assume good faith* with those who express ideas with which you disagree.
* Discuss and Challenge Ideas not People: As best you can, keep the focus on the statements and ideas of your peers (and your teaching team) rather than on their identity or person.

*Personal, Health, or Mental Heath Difficulties:* Life happens during every semester. All of us, including the teaching team, may face stress, anxiety, depression, sickness, grief, etc. during our class. As far as you are comfortable, you may discuss these issues with the teaching team. However, we are not mental health professionals so please consider reaching out to Campus [Mental Health](https://uhs.berkeley.edu/mental-health) Services should the need arise.

*Late Assignments and Extensions:* Whenever possible, extensions should be cleared with the teaching team by email at least 24 hours before the due date of the assignment. An extension longer than 2 days should be discussed in office hours. Do not feel obligated to disclose personal or medical information to us. Without an extension, late assignments will be accepted up to one week from their original due date, with a grade penalty of -5% per day late. Remember, a maximum score of a 65 is way better than a maximum score of 0 for non-submission!

**Useful Databases/ Resources:**

Course Blog: <https://foundationsoflawandsociety.wordpress.com/>

NexisUni (for case decisions): <https://www.nexisuni.com.libproxy.berkeley.edu/>

**Preliminary Schedule of Assignments**

**Week 1: Course Introduction**

Wednesday 1/17: Welcome to LS 100!

Read: Syllabus; Kitty Calavita, “Introduction,” *Invitation to Law & Society*.

Friday 1/19: Into the Legal Depths

Read: Peter Suber, “Introduction;” Lon L. Fuller, “The Case of the Speluncean Explorers.”

*Part 1: Laying the Foundations*

**Week 2: Primer on the American Legal System**

Monday 1/22: The Character of Common Law

Read: “The Common Law and Civil Law Traditions;” Holmes, “The Common Law: Early Forms of Liability”

Wednesday 1/24: The Adversarial System

Read: Robert Kagan, “The Concept of Adversarial Legalism”

Friday 1/26: Democracy and Constitutionalism

Read: Post and Siegel, “Democratic Constitutionalism”

**Week 3: Law on the Books, Law in Action**

Monday 1/29: What is law? One Question, Many Answers

Read: H. L. A. Hart, *The Concept of Law*, Ch. 1

Wednesday 1/31: Mind the Gap

Read: Calavita, “The Talk Versus the Walk of Law”

Optional: Pound, “Law in Books and Law in Action”

Friday 2/2: Applying the Books-Action Framework

Read: Jenness and Grattet, “The Law in Between”