

LEGALST 107: Theories of Justice

Summer Session D 2024, July 1-August 9

Lecture Schedule: Mon, Tue, Wed, and Thu, 12:10 p.m. to 2:00 p.m., Anthro/Art Practice Building, room 155

Section 101: Mon, 10:10 a.m. to 12:00 p.m., Social Sciences Building, room 104

Section 102: Tue, 2:10 p.m. to 4 p.m., Hildebrand, room B51

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Course Description

In this course we will be discovering, analyzing, and applying different conceptions of what justice is and what it requires of us, especially what it says about the ways that our societies and legal systems should be organized. We will discuss whether justice is about pursuing the greatest happiness for the greatest number, holding to principles that are so important to human flourishing that they can't be violated, or whether it is a more nuanced view that considers people's situations and the structures in which they are embedded to find out how best to meet their needs. We will be tackling questions about what is good and right, what freedom looks like and why it is important, what equality is and how we might achieve it, and how social, economic, and legal power structures impact people's access to justice. We will begin to explore these questions by learning about four major theories of justice in Western political philosophy: utilitarianism, libertarianism, egalitarian liberalism, and Marxism. We will also be considering critiques of these theories. We will see what these theories have to say about various political and legal issues, including health and safety regulation, economic supervision, educational funding, and other relevant topics.

The course will consist of two sections: in the first four weeks, we will learn the foundational theories of justice in modern and contemporary Western philosophy and consider how they might apply to some basic moral problems. In the last two weeks, we will go in depth into four current moral and political dilemmas, stretching ourselves to apply the theories we've learned to each issue. These topics will be: gender, sexual orientation, and reproductive justice; race and reparations; immigration and global labor justice; and free speech and hate speech.

Books and Readings

All but two of these books (Nozick and Marx) are available in unlimited electronic format from the university library's website. Links to these books are on our bCourses site. If you want to buy print copies, please get ones that match the ISBNs listed. All other readings will be posted to bCourses.

1. Mill, John Stuart. *Utilitarianism*. Auckland: The Floating Press, 2009. ISBN : 1-77556-821-0

2. Mill, John Stuart. *On Liberty*. Edited by David Bromwich and George Kateb ; with Essays by Jean Bethke Elshtain [and Others]. New Haven: Yale University Press, 2003. ISBN-13 : 978-0300096088
3. Kant, Immanuel. *Groundwork of the metaphysics of morals : a German-English edition*. Edited by Jens Timmermann ; English translation by Mary Gregor, revised by Jens Timmermann. Cambridge ; Cambridge University Press, 2011. ISBN : 9780521514576
4. Rawls, John. *A Theory of Justice*. Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 1971. ISBN : 9780674880146
5. Nozick, Robert. *Anarchy, State, and Utopia*. New York: Basic Books, 2013. ISBN : 9780465063741
6. Sandel, Michael J. *Liberalism and the Limits of Justice*. 2nd ed. Cambridge, UK ; Cambridge University Press, 1998. ISBN : 9780521562980
7. Marx, Karl. *Selected Writings*. Edited, with Introduction, by Lawrence H. Simon. Indianapolis: Hackett, 1994. ISBN : 9780872202191

Course Requirements

Lecture Attendance	15%
Section Attendance and Participation	10%
Reading Quizzes	15%
Paper 1	25%
Paper 2	35%
Total	100%

Readings and Study Questions: The schedule of readings is listed at the bottom of this syllabus and will be listed on bCourses. **You must do the readings before class and come prepared to discuss them.** Most of the work you will be doing outside of class will be reading; for a summer session course, students are expected to devote 20 hours per week to work outside class. I hope the readings will not take you quite that long, but if the reading load seems unmanageable, I encourage you to come see me in office hours for some tips, methods, and strategies to help you complete the expected readings. Study questions for each day's reading will be posted on bCourses, and these will help you to focus and get the most out of your reading. Some of the study questions may serve as models for the reading quiz questions (see below).

Lecture Attendance (15%): Classes will consist of some traditional lecture time, but also a lot of student participation and group activities. Attendance at lectures and sections is required. You will be expected to be present and on time for each class. Arriving after 12:10 (or once the sign-in sheet has already gone around) will lose you 25% of your attendance grade for that day. Arriving an hour or more late will count as an absence. If you are sick or otherwise unable to attend class, you will need

to email the instructor and GSI in advance and you will also need to write a 2-page paper answering **all** of the study questions for that day's readings to make up attendance credit. If you submit the paper but did not email your instructor and GSI in advance, you will lose 25% of your make-up attendance grade for that day. This make-up paper will be due by midnight a week after the missed class (e.g., if you miss a Thursday class, your paper will be due by midnight on Thursday of the next week; during the final week of classes, all make-up papers will be due by Friday, August 9).

Due to the condensed nature of this course and the density of the material, only two absences will be allowed; more than two absences will result in a grade of zero for the attendance portion (15%) of the course. Exceptions to this policy will only be allowed for emergency extenuating circumstances and at the instructor's discretion. I reserve the right to adjust attendance grade as necessary to account for participation.

Section Attendance and Participation (10%): Your GSI will tell you what requirements you need to meet to receive credit for section attendance and participation.

Reading Quizzes (15%): There will be a multiple-choice reading quiz due before each class. The first question will always ask "What authors did we read today?" This question is meant to be very easy and will get you 65% credit automatically. Thus, you get at least a D for just taking the quiz, even if you get all of the other answers wrong; this is my attempt to make multiple-choice reading quizzes fairer. I will also drop your lowest 4 quiz scores.

Papers: You will write two papers, one due at the end of the 4th week and one due at the end of the course. A brief description of each assignment is below, but please see the assignments in bCourses or talk to your GSI for more detailed instructions.

- **Paper 1 (25%):** This paper will be **due on Friday, July 26 by midnight**. You will choose **one** of several prompts that will be posted to bCourses at the beginning of the course. Your paper should: have a brief introduction giving an overview of what the paper is about, address every part of the prompt, and provide a brief conclusion that is more than just a summary (the conclusion should always add something to the paper: situate it in a larger context, suggest avenues for further thought, etc.). For this paper, you **may not** use outside sources. Any quotes or ideas drawn from course materials should be properly cited. The paper should be 4-5 pages (to respect your GSI's time, any content beyond 5 pages will not be read or assessed), double spaced, in a 12-point easily readable font, and have 1-inch margins. The paper can be in any standard academic format and should include a bibliography/works cited page at the end (not included in page count).
- **Paper 2 (35%):** This paper will be **due on Friday, August 9th by midnight**. You will choose a controversy in law/politics/society to examine through two of the theories we have covered. The topic should be separate in some way from the topics we are covering in class, though it may be related. Your topic selection and the two theories you will use to assess it will be due before class at the beginning of week 5 on Monday, July 29, and will constitute 5% of your grade on the paper. Your paper should briefly introduce the controversy, examine what each

of the theories you have chosen would say about it, and suggest which you think is more correct and why. For this paper, you **may** use outside sources, though you will also need to use course materials; all sources should be properly cited. This paper should be 5-7 pages (to respect your GSI's time, any content beyond 7 pages will not be read or assessed), double spaced, in a 12-point easily readable font, and have 1-inch margins. The paper can be in any standard academic format and should include a bibliography/works cited page at the end (not included in page count).

Policy on Late Papers

If you need additional time to write your first paper, ask your GSI for an extension at least two days in advance of the due date. If your paper is late and you have not received an extension, the final grade of your paper will be reduced by 1/3 a letter grade for every day your paper is late.

No extensions will be given for the Final Exam unless you have DSP accommodations. Please communicate DSP accommodations to your instructor and GSI **at least one week in advance of the due date**. This is because final grades are due to the University registrar very soon after the final exam deadline and we will not be able to grade any papers submitted late.

Office Hours

Cheri's office hours will be Mondays and Tuesdays from 2:10 to 3:10 in room 212 at 2240 Piedmont (the legal studies/JSP building at the top of campus). If neither of these times work for you, please email me to set up a separate time to meet on Zoom. Please get in touch with Nikila for GSI office hours.

Academic Integrity

Academic integrity requires scholars to interact with one another's ideas in good faith and with credit given where due. It is important to build on others' ideas as we advance scholarship, and it is equally as important to be clear about where those ideas we are building on have come from. Additionally, your work needs to express a measure of your own independent thought as you interact with the work of others.

Plagiarism: Plagiarism will not be tolerated in any form. Any direct quotations from any source must be in quotation marks and appropriately cited. Paraphrases of others' work must also be cited. All of your work must be your own original composition, thus using AI text generators to compose any part of your work will be considered plagiarism. It has also been my experience that AI systems cannot adequately and accurately express complex philosophical ideas, so using them will negatively impact your grade regardless of whether their use is detected or not.

Any plagiarized assignment will automatically receive an F, and you will be referred to the Office of Student Conduct. For additional information, see <https://www.lib.berkeley.edu/research-support/cite-sources#Plagiarism>.

Class Expectations and Diversity and Inclusion

You should arrive to class on time and be prepared. You are expected to **do the reading before class** and come prepared to participate thoughtfully. Philosophy can be difficult to read if you aren't used to it; do your best to get through the reading so that you at least have an overview of the big ideas, even if you don't quite follow every thought. Again, you may also come see me in office hours for tips, methods, and strategies for getting through readings and getting the most out of them.

As an instructor, I am committed to providing, as far as I can, the conditions to enable the success of each one of my students. No hateful or discriminatory speech will be tolerated. We all come from different backgrounds and have different experiences, ways of learning, and ways of expressing ourselves. During discussions, I will expect all students to be respectful of others' situations, thoughts, and points of view. If one of your fellow students expresses disagreement with an idea or discomfort with something that was said, students will be expected to listen to the objection with the purpose of understanding the objection, and not merely with the intention to craft a reply or defense of the original point. All discussion will be conducted with a posture toward the validity, dignity, and worth of each person and their identity. You are encouraged to review Berkeley's [Principles of Community](#).

If you have any concerns pertaining to diversity and inclusion, please feel free to come to your GSI or instructor and we will do our best to address them.

Please note that your GSI and instructor are both "Responsible Employees" of the University. This means that if a student divulges to us an incident of sexual harassment or violence, we are obliged to notify campus authorities. You can read more about the Responsible Employee designation [here](#).

DSP Accommodations

If you receive academic accommodations, please be sure that DSP has forwarded your letter of accommodation to your instructor and GSI as soon as possible. Please also let us know ahead of time (at least 24 hours) via email about any DSP accommodations you have and would like to use, especially on assignments and exams. You can learn more about DSP and how to apply here: <https://dsp.berkeley.edu/>

Support for Students in Need

If you are in need of economic, food, or housing support, you can find assistance at <https://basicneeds.berkeley.edu>. You may be eligible for assistance with buying food through calfresh.berkeley.edu or the [Food Assistance Program](#). If you are in immediate need of food, visit the UC Berkeley Food Pantry at pantry.berkeley.edu.

Schedule of Readings

Week 1: Utilitarianism and Deontology

- **Monday, July 1:** “Philosophy Terms” document; Mill, *Utilitarianism*, chapters 1, 2, and 5 (you may skim pp. 25-27, 38[from *]-41, 103-106[up to *]); Le Guin, “The Ones Who Walk Away from Omelas,” Optional: excerpts from Bentham, *An Introduction to the Principles of Morals and Legislation*
- **Tuesday, July 2:** Mill, *On Liberty*, chapters 1, 2*, and 3 (*only skim ch. 2; we will return to free speech at the end of the semester); Nahmias, “Autonomous Agency and Social Psychology”
- **Wednesday, July 3:** Mill, *On Liberty*, chapters 4 and 5; Savelescu, “Utilitarianism and the Pandemic”
- **Thursday, July 4: Academic and Administrative Holiday, no class or reading**
- **Monday, July 8:** Korsgaard, “Introduction to The Groundwork of the Metaphysics of Morals;” Kant, *Groundwork of the Metaphysics of Morals*, pp. 3-13 and 65-109 (a PDF of this selection with the English pages only is posted to bCourses); Optional: Korsgaard, “The Right to Lie: Kant on Dealing with Evil”

Week 2: Contract Theory and Libertarianism

- **Tuesday, July 9:** Hobbes, *Leviathan*, ch. 13 pp. 86-90, chs. 17-18 pp. 117-129; Rousseau, *The Social Contract*, pp. 41-51; Blackstone, excerpt from *Commentaries on the Laws of England*; Locke, *Second Treatise on Government*, ch. 5
- **Wednesday, July 10:** Nozick, *Anarchy, State, and Utopia*, preface (pp. xix-xxiv); all of ch 2; pp. 26-35 and 48-53 of ch 3; pp. 113-119 of ch 5
- **Thursday, July 11:** Nozick, *Anarchy, State, and Utopia*, pp. 149-164 and pp. 167-182 of ch 7; *Lochner v. New York* (1905), excerpts from Opinion of the Court (read highlighted portion) & Justice Holmes’s dissent; *West Coast Hotel v. Parrish* (1937), excerpts from Opinion of the Court (read highlighted portion)

Week 3: Egalitarian Liberalism

- **Monday, July 15:** Rawls, *A Theory of Justice*, sections 1-5 (pp. 3-27) of ch. 1
- **Tuesday, July 16:** Rawls, *A Theory of Justice*, only skim section 10 (pp. 54-60), read sections 11-14 (pp. 60-90) of ch. 2
- **Wednesday, July 17:** Rawls, *A Theory of Justice*, sections 22 (pp. 126-130), 24-26 (pp. 136-161), 29 (pp. 175-183) of ch. 3
- **Thursday, July 18:** *San Antonio Independent School District v. Rodriguez* (1973), Opinion of the Court & Justice Marshall’s dissent; Walsh, “Erasing Race, Dismissing Class”

Week 4: Critique of Liberalism and Introduction to Marxism

- **Monday, July 22:** Sandel, *Liberalism and the Limits of Justice*, introduction (pp. 1-14), sections of ch. 1 on pp. 47-54 (In Search... and The Self...), and on 60-65 (Individualism...)

- **Tuesday, July 23:** Sandel, *Liberalism and the Limits of Justice*, section of ch. 3 on pp. 122-132 (Behind the Veil...), sections of ch. 4 on pp. 168-174 (The Moral... and Justice and Community), and conclusion (pp. 175-183)
- **Wednesday, July 24:** Marx, "Economic & Philosophic Manuscripts of 1844," pp. 54-79 of *Selected Writings*; "The German Ideology," pp. 105-132, 142-145, 153-156 of *Selected Writings*
- **Thursday, July 25:** Marx and Engels, "The Communist Manifesto" pp. 157-186 of *Selected Writings*; Marx, "Preface to *A Contribution to the Critique of Political Economy*," pp. 209-213 of *Selected Writings*; "Critique of the Gotha Program" pp. 327-332 of *Selected Writings*

First paper due by midnight on Friday, July 26

Week 5: Gender, Sexual Orientation, and Reproductive Justice; Race and Reparations

- **Monday, July 29:** *Lawrence v. Texas* (2003); *Obergefell v. Hodges* (2015); Franke, "The Politics of Same-Sex Marriage Politics"
- **Tuesday, July 30:** Carol Gilligan, "Moral Orientation and Moral Development;" Luna and Luker, "Reproductive Justice;" Strangio, "Can Reproductive Trans Bodies Exist?"
- **Wednesday, July 31:** Mills, "Racial Equality;" Shelby, "Race, Reparations, and Justice as Fairness"
- **Thursday, August 1:** *Students for Fair Admissions v. Harvard College* (2023), excerpts of the Opinion of the Court & Justice Sotomayor's dissent; Elizabeth Anderson, "Understanding Affirmative Action"

Week 6: Immigration and Global Labor Justice; Free Speech and Hate Speech

- **Monday, August 5:** Walzer, *Spheres of Justice*, ch 2; Carens, "Aliens and Citizens: The Case for Open Borders"
- **Tuesday, August 6:** Frank, "The Development of Underdevelopment;" Young, "Responsibility and Global Labor Justice"
- **Wednesday, August 7:** *Virginia v. Black* (2003); Chemerinsky and Gillman, "Hate Speech," in *Free Speech on Campus*, optional: re-read Mill, *On Liberty*, ch. 2
- **Thursday, August 8:** Matsuda, "Public Response to Racist Speech: Considering the Victim's Story," in *Words That Wound* (1993) (excerpt)

Final paper due by midnight on Friday, August 9, no extensions