

**DRAFT SYLLABUS**  
**POLS 377 Topics in Law and Politics**  
“Righting Wrongs: Law, Ethics, and Social Change” (Spring 2014)  
MWF 12:30pm – 1:20pm (Kuy 213)

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**Course Description:** From the 2014 UH Manoa Catalog: “Current issues; recent research findings; practical research undertaken by student.”

This course will explore the sometimes complementary, sometimes conflicting issues that arise in society between law, ethics, and social change, with an emphasis on activism. The course will begin by exploring what law is and its relationship to ethics and social change. Included in this discussion will be theories of law and theories of governmental organization. The class also will take up the issue of changing the law through civil disobedience, judicial activism, and civil resistance, exploring the viability and necessity of these mechanisms in today’s world. The class will then move into a deeper discussion on how law is used today. This section includes exploration of business uses of law, including antitrust cases, corporate free speech and campaign spending, and shareholder activism; social uses of law, including perpetuation of societal beliefs and stereotypes (immigration laws) and changes to societal beliefs (civil unions); and how law can be used to right past wrongs. The final section will explore obligations to change the law through both legal and “extra-legal” means, exploring grass roots activism and an individual’s responsibility to fight against injustice.

The Course will be divided into the following sections. A detailed reaching schedule is provided in the Tentative Class Schedule, found at the end of this syllabus.

**Section I: Laying the Framework (Week 1)**

In this introductory section we will briefly explore the three key concepts covered in this course: Law, Ethics, and Social Change. Material learned in this section will be used throughout the course as we explore each of these issues in greater detail. We also will discuss philosophical/critical thinking tools that will help us to engage in constructive and intellectually safe dialogue throughout the semester

**Section II. Western History and Theories of Law - a Brief History (Weeks 2 - 4)**

In this section, we explore theories of law from its earliest inceptions through to contemporary times. Questions we will explore include the following: What is law? Where does it come from? What is it supposed to do? Who is it supposed to serve? Should law and ethics be separated (the separability thesis)?

**Section III: Obligations to Follow the Law (Weeks 5 - 8)**

In this section, we will begin by briefly reviewing various political theories of government. We will then move to a discussion of how changes can be made to laws, focusing on civil

disobedience and judicial activism. Questions we will explore include the following: Do we have an obligation to follow the law? If so, where does that arise from and how far does it go? What are the limits of civil disobedience? How far can judges go in interpreting the law?

#### **IV. What is Law for Anyway (Weeks 9 - 14)**

In this section, we explore three different ways in which law is used in contemporary society. The first is business use of law. In this section, we explore shareholder activism, the use of antitrust as a business tool to gain the competitive edge, and the use of the first amendment to gain political advantage. The second is the social uses of law. This part will be divided into two sub-sections. The first explores how law is used to perpetuate stereotypes and biases, looking at the current U.S. Immigration policy, including proposals by the Hawaii Congressional delegation to limit COFA migration. The second explores how law can be used to change societal beliefs and explores hate crimes as well as civil unions. The third explores how law is used to right past wrongs. This part will explore the Bikini Islanders attempts to receive Congressionally approved reparations, ceded land cases, and the arguments for changing the legal understanding of reparations in general.

#### **Section V: Obligations to Change Law: Whose house is it? (Weeks 15- 16)**

In this final section in the class, we explore our obligations as citizens to change law, as well as various examples of grass-roots based activism and civil resistance, including demilitarization, sovereignty, and the GMO-labeling movement. Questions raised in this section will be: Do we have an obligation to use activism to change laws? With the current political system, is activism the only viable means for citizens to change laws? Should activists be limited to protesting only certain issues and prohibited from addressing others, e.g., militarization.

#### **Course Objectives: student learning objectives for this course are as follows:**

- Students taking this course will be able to identify, evaluate, critically review, and actively participate in arguments related to social change and the role ethics and law should play in social change.
- Students taking this course will demonstrate facility with the vocabulary and forms of reasoning of philosophical ethics, law and social change and learn to recognize and to analyze dilemmas in policy formation, and show the ability to mount a critique from one of several perspectives of ongoing situations in the United States.
- Students taking this course will demonstrate familiarity with the categories of jurisprudence, government organization, civil disobedience, judicial activism, as it occurs in the United States.
- Students taking this course will become sensitized to issues occurring at the nexus of law, ethics, and social change, specifically the human, economic and political costs of laws and the struggles to change those laws.

#### Final Grade Breakdown

The detailed breakdown of the final grade is as follows:

Daily Participation (includes weekly topic)..... 15%

Quizzes, formal in-class assignments .....	20%
End of Unit Reflections.....	40%
Final Discussion Leader Assignment (Idea/DQ questions) .....	15%
Final Discussion Leader Presentation .....	10%
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	100%

## COURSE ASSIGNMENTS

### 1) Daily Participation (15%)

**Date Due: Ongoing**

Students are responsible for participating in class and making sure they are prepared to do so. Points will be given for a student’s readiness and ability to participate. In addition, at the start of each week, students will be required to submit, via Laulima, a topic of interest that they have seen in the press or media that relates to either past or upcoming topics. Students may be called upon to discuss their topic of choice and how it relates to the class. The topic submissions should be short, no more than one paragraph, and include the topic, the link to the media source (if applicable), and how the student thinks it relates to class. These topics will be used as discussion starters in class. Topics are due by 11:58 on Sunday of each week. Any unexcused absences will result in a lower letter grade for participation. If you are uncomfortable speaking or presenting in class, for whatever reason, please see me as soon as possible. For more on participation, please see below

### 2) Quizzes, formal in-class assignments (20%)

**Date Due: Ongoing**

Throughout the semester there will be quizzes and formal in-class assignments, such as debates, scenarios, and role playing activities. These will be graded separately from participation. Students will only be able to make up missed quizzes if they contact me BEFORE class that they will not be attending class that day. The purpose of these assignments is to ensure comprehension of material.

### 3) End of Unit Reflections

**Date Due: TBA**

At the completion of Units II – IV, students will submit a 3-4 page reflection essay. The goal of the essays is to ensure students understand the key concepts in the units and to help students begin to think how they might apply these key concepts to the final project. More details on critical reflections will be provided at the beginning of class. The essays will be completed outside of class. Students may work in groups and may consult all available resources (including me), however, each student must submit his/her own final essays. Responses will be graded on accuracy, clarity, argument structure; creativity; and mechanics, including proper grammar, spelling, and APA, MLA, or Chicago formatting. If sources are used, they must be cited. Late essays will be docked 5% for each day late. All essays must be uploaded to Laulima Assignments section in Microsoft Word format. Citation to Wikipedia will result in the loss of five points per essay in which the citation is found.

### **3) Final Discussion Leader Assignment (Idea/DQ Questions) (15%)    Date Due: TBA**

The final project in this course is for students, working in pairs, to lead a discussion on a topic relevant to the course. Students have a large range of flexibility on how they wish to conduct their discussion, including, showing clips of films and discussing, requiring outside film viewings and readings, and so forth. A key component of this assignment will be to work with me to craft your idea and identify resources and relevant discussion questions. This assignment requires you to submit your idea and discussion questions to me for review and a meeting (via email is fine) to further discuss and hone the questions. Deadlines for this likely will be set in mid-April, so it is best to begin thinking about your topic as soon as possible. More information on this assignment will be provided at the start of the class.

### **4) Final Discussion Leader Presentation (10%)    Date Due: TBA**

Working either alone or with another student, lead a classroom discussion related to any topic in this class. You may use movie clips and readings and require outside readings and viewing of movies. More information on this assignment will be provided at the start of the class.

**Participation:** Participation is graded on individual and group contributions to class discussions. The development of oral skills, including the ability to think on one's feet and to apply material we learn in class to everyday situations, is given a high priority in this course. Each class will offer an opportunity to participate in classroom discussion. The classroom should be considered a laboratory in which a student can test their ability to convince their peers of the correctness of their approach.

Some of the characteristics of effective class participation are:

1. Points are made relevant to the discussion in terms of increasing everyone's understanding.
2. Comments take into consideration the ideas offered by others earlier in the class. The best contributions tend to be those, which reflect, not only excellent preparation, but also good listening, and interpretative and integrative skills.
3. Comments show evidence of a thorough reading and analysis of the course material.
4. Comments distinguish among different kinds of data; that is, facts, opinions, assumptions, and inferences.
5. Comments show a willingness to test new ideas.
6. Participant is willing to interact with other class members by asking questions or challenging conclusions.
7. Comments show a familiarity with and use of **The Good Thinker's Tool Kit.**

**Outstanding Contributor:** Contributions in class reflect thorough preparation. Ideas offered are usually substantive, provide one or more major insights, as well as, direction for the class. The Good Thinker’s Tool Kit is used appropriately to push assumptions both of self and others deeper. Arguments, when offered, are well substantiated and persuasively presented. If this person were not a member of the class, the quality of the discussions would be diminished significantly.

**Good Contributor:** Contributions in class reflect thorough preparation. Ideas offered are usually substantive, provide good insights and sometimes direction for the class discussion. Arguments, when presented, are, generally, well substantiated and are often persuasive. If this person were not a member of the class, the quality of the discussion would be diminished considerably.

**Adequate Contributor:** Contributions in class reflect satisfactory preparation. Ideas offered are sometimes substantive, provide generally useful insights, but seldom offer a major new direction for the discussion. Arguments are sometimes presented, and are fairly well substantiated and sometimes persuasive. If this person were not a member of the class, the quality of the discussions would be diminished somewhat.

**Non-participant:** This person has said little or nothing in this workshop or class. Hence, there is no adequate basis for evaluation. If this person were not a member of the class, the quality of the discussions would not be changed.

**Unsatisfactory Contributor:** Contribution in class reflects inadequate or non-existent preparation. Ideas offered are seldom substantive; provide few, if any, insights; and rarely provide a constructive direction for the class discussion. Integrative comments and effective arguments are completely absent. Class contributions are, at best, “time fillers” efforts to make isolated, obvious, or confusing points. If this person were not a member of the class, valuable class time would be saved.

Examples causing one not to earn the full amount of participation points:

- Doing homework in class
- ◆ Not reading assigned material
- ◆ Being disruptive
- ◆ Arriving late, leaving early
- ◆ Cell phone/pagers going off during class
- ◆ Inappropriate use of laptops in classroom

## **GRADING SCALE**

All work is graded on outcomes and is not graded on effort.

Final grade distribution: 100-94 A, 93-90 A-; 89-87 B+, 86-84 B, 83-80 B-; 79-77 C+, 76-74 C, 73-70 C-; 69-67 D+, 66-60 D; 59 or below F.

**A** = Clearly stands out as an excellent performer. Has unusually sharp insight into material and initiates thoughtful questions. Sees many sides of an issue. Articulates well and writes logically and clearly. Integrates ideas previously learned from this and other disciplines; anticipates next steps in progression of ideas.

**Example:** “A” work should be of such a nature that it could be put on reserve for all students to review and emulate. The “A” student is, in fact, an example for others to follow.

**B** = Grasps subject matter at a level considered to be good to very good. Participates actively in class discussion. Writes well. In On-Campus environments, speaks well. Accomplishes more than the minimum requirements. Produces high quality work.

**Example:** “B” work indicates a high quality of performance and is given in recognition for solid work: a “B” should be considered a high grade.

**C** = Demonstrates a satisfactory comprehension of the subject matter. Accomplishes only the minimum requirements, and displays little or no initiative. Communicates orally (On-campus environments) and in writing at an acceptable level for a college student. Has an acceptable understanding of all basic concepts.

**Example:** “C” work represents average work. A student receiving a “C” has met the requirements, including deadlines, of the course.

**D** = Quality and quantity of work is below average and barely acceptable.

**Example:** “D” work is passing by a slim margin.

**F** = Quality and quantity of work is unacceptable.

**Example:** “F” work does not qualify the student to progress to more advanced level of course work.

Extra credits are available, however, you must see me to discuss extra credits opportunities no later than November 15, 2012.

Final grade distribution: 100-94 A, 93-90 A-; 89-87 B+, 86-84 B, 83-80 B-; 79-77 C+, 76-74 C, 73-70 C-; 69-67 D+, 66-60 D; 59 or below F.

### Tentative Course Schedule

Wk	Date	Lecture	Reading Assignments Due	Class Assignments and Misc
1	Mon 1/13	Introduction & Syllabus Begin Unit I: Laying the	Jackson, “The Good Thinker’s Toolkit”	

		Framework – Critical Thinking Tools		
	Wed 1/15	Unit I: Laying the Framework (cont)	Cardozo, “The Nature of the Judicial Process” Stoddard, “Bleeding Heart: Reflections on Using Law to Make Social Change”	
	Fri 1/17	Unit I: Laying the Framework (cont)	Excerpts from Doing Good and Avoiding Evil ( <a href="http://www.rit.edu/~w-ethics/resources/manuals/dgaeindex.html">http://www.rit.edu/~w-ethics/resources/manuals/dgaeindex.html</a> )	
2	Mon 1/20	<b>No Class – Martin Luther King Holiday</b> <b>Please read: Letter from a Birmingham Jail – we will begin class on Wednesday with a discussion of this work.</b>		
	Wed 1/22	Unit II: Western History and Theories of Law – A brief History	- The Code of Hammurabi ( <a href="http://www.fordham.edu/halsall/ancient/hamcode.asp">http://www.fordham.edu/halsall/ancient/hamcode.asp</a> -- be sure to read the text of the laws) - Aristotle, (Equity excerpts) - Privileges and Prerogatives Granted by Their Catholic Majesties to Christopher Columbus : April 30, 1492 ( <a href="http://avalon.law.yale.edu/15th_century/colum.asp">http://avalon.law.yale.edu/15th_century/colum.asp</a> )	
	Fri 1/24	Unit II: Western History and Theories of Law – Theories of Western law	<u>Natural Law Theory:</u> Aquinas, “Law for the Common Good” Bix, “Natural Law Theory” <u>Legal Positivism:</u> Austin, “The Command Theory of Law” Hart, “Law as the Union of Primary and Secondary Rules”	
3	Mon 1/27	Unit II: Western History and Theories of Law – Theories of Western law	<u>American Legal Realism and Pragmatism:</u> Holmes, “The Path of the Law” Frank, “Law as the Product of Court Decisions” <u>Law and Economics Movement:</u> Posner, <i>The Problems of Jurisprudence (excerpts)</i> Nussbaum, “Flawed Foundations:	

			The Philosophical Critique of (a Particular Type of) Economics”	
	Wed 1/29	Unit II: Western History and Theories of Law – Theories of Western law	<u>Critical Legal Studies</u> Kennedy, <i>A Critique of Adjudication</i> (excerpts) <u>Feminist Jurisprudence</u> Scales, “The Emergence of Feminist Jurisprudence: An Essay” Scheppelle, “The Reasonable Woman” Smith, <i>Feminist Jurisprudence</i> (excerpts)	
	Fri 1/30	Unit II: Western History and Theories of Law – Theories of Western law	<u>Satomayor Speech</u> <u>Law as Story</u> Berry, <i>The Pig Farmer’s Daughter and Other Tales of American Justice: Episodes of Racism and Sexism in the Courts from 1865 to the Present</i> (excerpts)	
4	Mon 2/3	Unit II: Western History and Theories of Law – Theories of Western law	Devlin, “The Enforcement of Morals” Hart, “Positivism and the Separation of Law and Morals”	
	Wed 2/5	<b>Catch-up and Prep day for Separability Thesis Debate</b>		
	Fri 2/7	<b>Separability Thesis Debate</b>		
5	Mon 2/10	Unit III. Obligations to Follow the Law	Plato – The Crito Locke – excerpts from <i>The Second Treatise of Government</i>	
	Wed 2/12	Unit III. Obligations to Follow the Law	Hobbes, “The Natural Condition of Mankind and the Laws of Nature” from <i>The Leviathan</i>	
	Fri 2/14	Unit III. Obligations to Follow the Law	Rousseau, excerpts from <i>The Social Contract</i>	
6	Mon 2/17	Unit III. Obligations to Follow the Law	Rawls, excerpts from <i>Justice as Fairness</i>	



	Wed 2/19	Unit III. Obligations to Follow the Law	Nussbaum, excerpts from <i>New Frontiers of Justice</i>	
	Fri 2/21	Unit III. Obligations to Follow the Law	Noczik, excerpts from <i>Anarchy, State, and Utopia</i>	
7	Mon 2/24	Unit III. Obligations to Follow the Law	Rawls, "Civil Disobedience and Conscientious Refusal"	
	Wed 2/26	Unit III. Obligations to Follow the Law	Lyons, "Moral Judgment, Historical Reality, and Civil Disobedience"	
	Fri 2/28	Unit III. Obligations to Follow the Law	Thoreau, "On The Duty of Civil Disobedience"	
8	Mon 3/3	Unit III. Obligations to Follow the Law	King, "Letter from a Birmingham Jail"	
	Wed 3/5	Unit III. Obligations to Follow the Law	Film: <i>The Massie Affair</i> and jury nullification	
	Fri 3/7	Unit III. Obligations to Follow the Law	Judicial Activism Readings	
9	Mon 3/10	Unit IV: What is Law for Anyway	Introduction and Business Use of Law -- Shareholder Activism readings	
	Wed 3/12	Unit IV: What is Law for Anyway	Introduction and Business Use of Law -- Shareholder Activism readings	
	Fri 3/14	Unit IV: What is Law for Anyway	Antitrust Readings – Moana Loa Macadamia Nut Cases	
10	Mon 3/17	Unit IV: What is Law for Anyway	Antitrust Readings – Moana Loa Macadamia Nut Cases	
	Wed 3/19	Unit IV: What is Law for Anyway	Free Speech and Businesses	
	Fri 3/21	Unit IV: What is Law for Anyway	Free Speech and Businesses	
11	Mon 3/24-Fri 3/28	<b>Spring Break</b>		
12	Mon 3/31	Unit IV: What is Law for Anyway	Social Uses of Law – Perpetuating Societal Beliefs – Immigration Law	

	Wed 4/2	Unit IV: What is Law for Anyway	Social Uses of Law – Changing Societal Beliefs – Hate Crimes Gates, “War of Words: Critical Race Theory and the First Amendment”	
	Fri 4/4	Unit IV: What is Law for Anyway	Social Uses of Law – Changing Societal Beliefs – Civil Unions	
<b>13</b>	Mon 4/7	Unit IV: What is Law for Anyway	<b>Social uses of Law – Changing Societal Beliefs – Righting Wrongs:</b> Matsuda, “Looking to the Bottom: Critical Legal Studies and Reparations” (Intro. (324-326), III A-C (362-388) <b>Matsura and Reparations</b>	
	Wed 4/9	Unit IV: What is Law for Anyway	<a href="http://www.bikiniatoll.com/repar.html">http://www.bikiniatoll.com/repar.html</a>	
	Fri 4/11	Guest Speaker: (KKV or Osorio)		
<b>14</b>	Mon 4/14	Unit IV: What is Law for Anyway	<b>OHA v. HHFDC</b>	
	Wed 4/16	Unit IV: What is Law for Anyway	<b>Catch-up and In-class discussion</b>	
	Fri 4/18	<b>No Class – Good Friday</b>		
<b>15</b>	Mon 4/21	Unit V: Obligations to the Law: Whose House Is It?	Arendt, Hannah “On Revolution”	
	Wed 4/23	Unit V: Obligations to the Law: Whose House Is It?	Arendt, Hannah “On Revolution”	
	Fri 4/25	Unit V: Obligations to the Law: Whose House Is It?	Arendt, Hannah “On Revolution”	
<b>16</b>	Mon 4/28	Unit V: Obligations to the Law: Whose House Is It?	Boyle, Protesting Power: War, Resistance, and Law	

	Wed 4/30	Unit V: Obligations to the Law: Whose House Is It?	Boyle, <i>Protesting Power: War, Resistance, and Law</i>	
	Fri 5/2	Unit V: Obligations to the Law: Whose House Is It?	DVD: "Human Rights and the Hawaiian Kingdom, a Panel Discussion commemorating the 50 <sup>th</sup> year of the Universal Declaration of Human Rights."	
<b>17</b>	Mon 5/5	Discussion Leader Presentations		
	Wed 5/7	Discussion Leader Presentations		
<b>Finals Week</b>	Fri 5/16 12:00 – 2:00pm	Discussion Leader Presentations		
	Friday 5/16  11:58pm	<b>All assignment due</b>		
<b><i>Happy Summer!! Have a great, well-deserved break!</i></b>				