

Law, Letters, and Society

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Program of Study

The program in Law, Letters, and Society is concerned with law in civilian and customary legal systems, both historically and contemporaneously. The program is designed to develop the student's analytical skills to enable informed and critical examination of law broadly construed. The organizing premise of the program is that law is a tool of social organization and control, not simply an expression of will or aspiration, and that it is best understood by careful study of both rhetorical artifacts and empirical consequences of its application. Program requirements are constructed to support the organizing premise, and, because of the nature of the requirements, transfer students ordinarily are not eligible to register as concentrators.

The program requires course work in three areas, although there is a reasonably broad latitude both expected and permitted in satisfaction of the distributional requirement. There is a substantial writing requirement; candidates for special honors are expected to produce further written work under the close supervision of a faculty member whose area of scholarly concern is related to the broad objectives of the program.

Program Requirements

Course work is required in three areas. After successfully completing the Introductory Course, students must take two courses in Letters and two courses in Society. In addition, students must complete six other courses that, while not necessarily offered or listed formally under either rubric, are substantively supportive of the topics, areas, skills, or concerns of the two areas. Courses satisfying the additional requirement are identified on an annual basis, and final approval of additional required course work is made on the basis of consultations between the student and the program chairman.

The Introductory Course. The introductory course must precede all other course work in the concentration, because it establishes the intellectual moorings of the program. The importance of the introductory course lies not in its content (indeed, its precise focus and scope tends to be different every year) but on its approach to the nature of law. In 2002-03, for example, the introductory course is Legal Reasoning, a study, based primarily on cases, of the classic conventions of legal argument in the Anglo-American legal system. In other years, the introductory course might be Roman Law or Greek Law, Medieval Law, or a text-based course on ancient legal philosophy, or a comparison of modern legal categories and policies with those of former societies and cultures. The objective is not so much to establish a historical foundation for modern studies as to demonstrate that legal systems are culturally rooted; that urgent, most present concerns may obscure important characteristics of legal ideas and behavior; and that many recurrent themes in Western legal thought are shaped or driven by both

common and uncommon features. Unlike many legal studies programs that attempt to orient study of the law in primarily contemporary debates, usually in the field of American constitutional law, the program seeks to organize its exploration of law as a system rather than as a forum or an instrument.

Other Course Work. After completing the introductory course, students must take two courses each in the Letters and Society divisions of the program, plus six other courses complementary to the required work, as outlined previously (the other six courses may be ones cross listed in the program or may be from other disciplines). Letters and Society are not meant as fixed or self-defining fields, but instead as organizational categories emphasizing two fundamental modes of examining law in a systemic fashion. Courses under the rubric of Letters (whether based in the program or in English, philosophy, or political theory) tend to be based on the study of literary and historical artifacts, such as cases, tracts, conventional literature, or other texts, and emphasize the ways in which law formally constitutes itself. Questions of interpretative and normative theory, rhetorical strategy, and the like are central to such courses. Society serves to organize studies from a variety of different disciplines (including history, political science, economics, and sociology) that try to measure, with different techniques and at different times, the effect of law on society. The combined objective is to treat law as an intellectual activity and as a phenomenon, and to emphasize that both occur in contexts that help to shape them, whether ancient or modern.

Research. In addition to satisfying the course requirements, each concentrator who enters the Program beginning in Autumn 1999 must produce evidence of sustained research in the form of a substantial research paper during either the junior or senior year and approved by a member of the faculty, although not necessarily a member of the program faculty. Papers may be written in conjunction with Law, Letters, and Society courses, under the auspices of reading and research courses, or in a Research Seminar. (The paper is an independent requirement, however, and need not be accomplished in conjunction with enrollment in a specific course.) The scope, method, and objective of the paper, as well as its length, are subject to negotiation between the student and the instructor.

Summary of Requirements

<i>Concentration</i>	1	Introductory Course
	2	Letters courses
	2	Society courses
	<u>6</u>	other complementary courses
	11	

Honors. In Law, Letters, and Society, the primary requirement for honors is a distinguished senior paper. Students wishing to stand for Special Honors choose an instructor to work with, and jointly they decide whether the student does research and submits a paper for honors. Papers submitted pursuant to such agreements are examined by a second reader, who must agree with the primary instructor that special honors are merited. No formal grade requirement supplements these conditions.

Reading and Research Courses. For students with a legitimate interest in pursuing study that cannot be met by means of regular courses, there is an option of devising a reading and research course to be supervised by a member of the faculty and taken for a letter grade. Such courses may not be used to satisfy the requirements of either the two-course Letters or two-course Society requirements, but up to two such courses may be used to satisfy part of the other six required courses, with the written permission of the program chairman obtained in advance of initiation of the work.

Grading. Two of the six supplementary courses required in the program may, with the consent of the instructor, be taken on a *Pass/No Credit* basis.

Advising. Students who wish to concentrate in Law, Letters, and Society must register for LLSO 24200 in Autumn Quarter of their second year. *This requirement is not negotiable.* Upon deciding to concentrate in Law, Letters, and Society, students should arrange to consult with the program chairman on their course of study in the program. Students should continue to consult with their College advisers on general degree requirements.

Faculty

J. Boyer, J. Comaroff, C. Gray, D. Hutchinson, R. Lerner, W. Novak, W. Olmsted, G. Rosenberg, R. Saller, D. Smigelskis

Courses

I. The Introductory Course

24200. Legal Reasoning. *PQ: Open only to second-year students who are beginning the LLSO concentration.* This course is an introduction to legal reasoning in a customary legal system. The first part examines the analytical conventions that lawyers and judges purport to use. The second part examines fundamental tenets of constitutional interpretation. Both judicial decisions and commentary are used, although the case method is emphasized. *D. Hutchinson. Autumn.*

II. Letters

21500. Political Philosophy: Rousseau. (=FNDL 29200, PLSC 31500) For course description, see Political Science. *J. Cropsey. Winter.*

22400. Rhetorical Theories of Legal and Political Reasoning. (=GSHU 22300/32300, HUMA 21400, SOSC 22400) This course uses Plato's *Gorgias* to raise the question of whether practical thinking is possible and considers responses to this question by such writers as Aristotle, Cicero, and Machiavelli. We study the methods and concepts that each writer uses to defend the cogency of legal, deliberative, or more generally political prudence against explicit or implicit charges that practical thinking is merely a knack or form of cleverness. *W. Olmsted. Winter.*

22800. Kant: Ethics, Politics, History, Religion. (=FNDL 21500, HUMA 25000, IMET 31500) Kant is correctly said to emphasize the importance of individual ethical action. Many, however, neglect to explore his insistence that such action can only flourish within a context of minimal social order,

of an ethical community, and of a world community over time, the primary concerns respectively of what he calls politics, religion, and history. Kant's two-part *Metaphysics of Morals* which deals with both politics and ethics, *Religion within the Limits of Reason Alone*, and various essays on "history" are read to provide a better appreciation of his subtle and consciously interrelated reflections on the many dimensions and problems of the practical. *D. Smigelskis. Spring.*

22900. Kinds and Arts of Storytelling. (=HUMA 22400, IMET 32900) Most recent talk about stories is solely in terms of narratives, one manner of storytelling. The course explores different kinds of stories through the reading of specific examples as well as reflections, traditional and modern, on what stories are and can do. In addition, students are given practice in reading stories with attention to how they are put together, especially as sustained sequences, a traditional concern of what have been called arts of storytelling, some examples of which are also read and discussed. *D. Smigelskis. Spring.*

24300. American Law and the Rhetoric of Race. (=LAWS 59800) This course examines the ways American law has treated legal issues involving race. Two episodes are studied in detail: the criminal law of slavery during the antebellum period and the constitutional attack on state-imposed segregation in the twentieth century. The case method is used, although close attention is paid to litigation strategy and judicial opinion. *D. Hutchinson. Spring.*

24700. The First Amendment. This course is a study, using the case method, of the theory and doctrine of the free speech, free press, and religion clauses of the First Amendment to the Constitution of the United States, with special emphasis on current controversies over symbolic speech, hate speech, and the right to privacy as it relates to the media. *D. Hutchinson. Autumn.*

III. Society

22000. Psychology and the Law. (=PSYC 20800) This course critically examines the convergences and conflicts between the disciplines of psychology and the law. We examine psychological research concerning a variety of topics of law that become the substance of dispute in legal decisions, including eyewitness testimony, reconstructed memory, predictions of dangerousness, competency, and the insanity defense. We also consider psychological research on the legal system (e.g., jury selection, decisional biases in judgment) as well as how legal decisions can be affected by other societal institutions such as the media. *M. Jenuwine. Winter.*

22700. Constitutionalisms. (=HUMA 23700, IMET 37200) The primary readings are selections from Aristotle, Spinoza, Hegel, and Mill. These four are major examples of a tradition of preoccupations with what can reasonably be described as constitutions, though none fit what many consider to be the model of the United States. The reading selections for each thinker provide some sense of the larger and different analytic contexts in which preoccupations can arise, all of which are distinguishable from most of the normal contexts and modes of analysis in which the Constitution of the United States is thought about. *D. Smigelskis. Winter.*

23000. Kinds of Sophisticated Lawyering. (=HUMA 25400, IMET 32700)

Examples of the many things lawyers do and do well are presented. In addition, the implications of the ethical demands that arise during the course of such activities are explored as well as the extent to which each kind of functioning can or should serve as a model for other types of functioning within the profession. Some attention is given to the activities of judges, litigators, and lawyers as managers of others, but there is also significant emphasis placed on the many things done in what was once called private as opposed to public law, such as obtaining multiparty agreements in contractual situations. *D. Smigelskis. Winter.*

23100. Environmental Law. (=ENST 23100, PBPL 23100) *PQ: Third- or fourth-year standing, or consent of instructor.* For course description, see Environmental Studies. *H. L. Henderson. Autumn.*

23600. The Environment in U.S. History. (=ENST 23600) For course description, see Environmental Studies. *A. Gugliotta. Spring.*

25100. Human Rights I: Philosophical Foundations of Human Rights. (=GSHU 28700/37000, HIST 29301/39301, HMRT 20100/30100, INRE 31600, LAWS 41200, MAPH 40000, PHIL 31600) For course description, see Philosophy. *M. Green. Autumn, 2003.*

25900. The Economics of Public Law. *Knowledge of economics not required.* This course examines recent economic research into public law, focusing in particular on constitutional law, administrative law, and the legislative process. Among the issues considered are theories of voting and what they say about how to structure the legislature, as well as the role of agencies in the governmental structure (e.g., separation of powers, bicameralism) The course considers both the theoretical developments as well as their application to real world issues (e.g., free speech, civil rights). *J. Pfaff. Winter.*

26600. Original Intent: Historical Roots of Modern Controversy. (=HIST 27500) America's founding era (1776 to 1791) and the early republic saw the adoption of many state and federal constitutional provisions and principles that today occasion historical debate, legal controversy, and political acrimony. This course presents an introduction to some of the principal historical debates. Topics include church/state relations, limits on subversive or offensive speech, police investigative procedures, legislative modification of private property rights, citizens' rights to own firearms, the power of courts to overturn statutes, and the precedential force of English law. We do not focus on modern constitutional law itself, although we read excerpts from Supreme Court opinions that address historical evidence. *J. Hart. Winter.*

26900. The Slavery Question, 1789 to 1861. (=HIST 16400) For course description, see History. *J. Saville. Winter.*

26901/26902. African-American History. (=HIST 27200-27300/37200-37300) For course descriptions, see History.

26901. African-American History to 1877. (=HIST 27200/37300) *J. Saville. Winter.*

26902. African-American History since 1877. (=HIST 27300/37300)
J. Saville. Spring.

27100. Human Rights II: Historical Underpinnings of Human Rights.
(=GSHU 28800/38800, HIST 29302/39302, HMRT 20200/30200, INRE 36400, LAWS 41300) For course description, see History. *M. Geyer, W. Novak. Winter.*

27200. Human Rights III: Contemporary Issues in Human Rights.
(=GSHU 28900/38900, HIST 29303/39303, HMRT 20300/30300, INRE 57900, LAWS 57900, PATH 46500) For course description, see History. *R. Kirschner, R. Quinn. Spring.*

28000. U.S. Labor History. (=HIST 18600, HMRT 28600) For course description, see History. *A. Stanley. Spring.*

28900. Environmental Policy and Decision Making. (=ENST 24700, PBPL 22500) For course description, see Environmental Studies. *S. Trainor. Winter.*

29300. Environmental Philosophy and Ethics. (=ENST 28000) For course description, see Environmental Studies. *S. Trainor. Spring.*

IV. Research and Reading

29400. Research Seminar. *PQ: Consent of instructor. Class limited to fifteen students.* This research seminar examines problems in modern American constitutional history. Topics are selected by students with the approval of the instructor. Prior topics include inherent presidential power, due process in prisons, sexual preference and equal protection, impeachment, and Congressional control of foreign affairs. *M. Jenuwine. Autumn.*

29700. Reading Course. *PQ: Consent of faculty supervisor and program chairman. Students are required to submit the College Reading and Research Course Form. Must be taken for a letter grade.* This course is designed for Law, Letters, and Society students whose program requirements are best met by study under a faculty member's individual supervision. The subject, course of study, and requirements are arranged with the instructor. *Autumn, Winter, Spring.*