

# Law, Letters, and Society

*Program Chairman: Dennis J. Hutchinson, LBQ 411, 702-9575*  
*Secretary: Delores Jackson, C 330, 702-7148,*  
*djackson@midway.uchicago.edu*

## 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 2003-04, 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, 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 must produce evidence of sustained research in the form of a substantial research paper during either the junior or senior year and obtain approval of 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 quality 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: Law, Letters, and Society (LLSO)

### *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: Spinoza.** (=FNDL 29200, PLSC 31200) An inquiry into Spinoza's *Ethics* as a contribution to the foundations of the Enlightenment. *J. Cropsey. Winter.*

**22400. Rhetorical Theories of Legal and Political Reasoning.** (=HUMA 21400, IMET 32400, ISHU 22800/32800, 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.*

**23900. Introduction to Constitutional Law.** (=PLSC 28800) This course is an introduction to the constitutional doctrines and political role of the U.S. Supreme Court, focusing on its evolving constitutional priorities and its response to basic governmental and political problems, including maintenance of the federal system, promotion of economic welfare, and protection of individual and minority rights. *G. Rosenberg. Winter.*

**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. *Spring.*

**26501. The Literature of Rights in Early America.** (=ENGL 25301/45301) This course focuses on the historical relationship between rights and writing between the American Revolution and the Civil War. We devote some attention to recent scholarly statements on the origins and historical meanings of the first ten amendments to the U.S. Constitution, but our major interpretive interest is to develop ways of thinking about “rights-talk” within a broader culture of rights. To that end, we read novels, poems, and plays as well as declarations of rights, political pamphlets, and legal opinions and discuss topics ranging from slavery and women’s equality, to welfare reform and animal rights. *E. Slauter. Winter.*

**27500. Hegel’s Philosophy of Right.** (=FNDL 23000, HUMA 24700, IMET 36900) The course will first focus on “translating”—becoming more familiar with—what is to many the peculiar language of Hegel, a language which has set and still sets the most important boundaries and questions for many thinkers, not merely about politics but also about economics, sociology, and jurisprudence. More importantly, the possible continuing plausibility and relevance of particular arguments and especially the general strategies of Hegel’s broad argument will also be explored as far as time and student interest permit. Furthermore, once some comfort with the language is attained, various strategies will be used to guard against the possible bewitchment by what will probably be for many a somewhat new language of thought. *D. Smigelskis. Spring.*

**27700. Aristotle’s *Ethics*.** (=FNDL 27700, HUMA 27800, IMET 37700) Special attention is given to the problems Aristotle thought important to consider, the sequence in which they are generated, and why such kinds of problems may continue to be worthy of attention. A further focus is the manner in which the *Ethics* is a principled deliberative inquiry meant to eventuate in more sophisticated choices by the readers. *D. Smigelskis. Winter.*

### III. Society

**21700. Constitution of Community.** (=HUMA 23700, IMET 21100, LLSO 21700) Attention is once again being given to how a “we”, a community, establishes itself. This interest often assumes that discussion and deliberation will play a, perhaps the major role, and often coincides with the notion that the organization of the community should be through government by discussion. This course will use one major example of the constitution of a community, the United States. Texts of the Declaration of Independence, Articles of Confederation, the “debates” in Philadelphia in 1787 (especially Madison’s Notes), the ratification conventions (especially the Federalist), and the actions in the newly formed Congress, especially the House, will be discussed with special considerations of how what these people do enables fruitful conversation and thus is itself an example of community and the means of establishing and maintaining it as well as to how what was done here can and was extended beyond these times and texts in ways consistent with them. Otherwise put, the course will not be a repetition of the typical “historical”, “legal” or “philosophical” interpretations given and uses made of these events and texts. *D. Smigelskis. Winter.*

**21800. Liberating Narratives.** (=HUMA 23900, IMET 31800) Some reflective autobiographies written in mid-career will be featured. The primary texts will be Maxine Hong Kingston’s *The Women Warrior*, Bill Bradley’s *Life on the Run*, and James Watson’s *The Double Helix*. Each exemplifies how some people have used various resources and strategies to increase their ability to act without simultaneously diminishing the similar abilities of others in situations which require overcoming systemically oppressive obstacles. This is in part accomplished through examples of how a flourishing in certain types of activities has been achieved and the kinds of satisfactions involved. Other texts will be chosen as the interests of the class emerge in discussion. *D. Smigelskis. Spring.*

**23100. Environmental Law.** (=ENST 23100, PBPL 23100) *PQ: Third- or fourth-year standing, or consent of instructor.* This lecture/discussion course examines the development of laws and legal institutions that address environmental problems and advance environmental policies. Topics include the common law background to traditional environmental regulation, the explosive growth and impact of federal environmental laws in the second half of the twentieth century, regulations and the urban environment, and the evolution of local and national legal structures in response to environmental challenges. *H. L. Henderson. Autumn.*

**23600. The Environment in U.S. History.** (=ENST 23600) Contemporary environmental issues are deeply rooted in a complex history, often ignored or misunderstood. This course examines human engagement with the natural world in what is now the United States. We explore the interaction of environmental change with human activities and ideologies that reflect broader themes in American culture. *A. Gugliotta. Winter.*

**24001. Law and Society.** (=PLSC 22500) This course examines the myriad relationships between courts, laws, and lawyers in the United States. Issues covered range from legal consciousness to the role of rights to access to courts to implementation of decisions to professionalism. *G. Rosenberg. Spring.*

**25100. Human Rights I: Philosophical Foundations of Human Rights.** (=HIST 29301/39301, HMRT 20100/30100, INRE 31600, ISHU 28700/38700, LAWS 41200, MAPH 40000, PHIL 21700/31600) This course deals with the philosophical foundations of human rights. The foundations bear on basic conceptual and normative issues. We examine the various meanings and components of human rights and the subjects, objects, and respondents of human rights. We ask questions such as: Who has the rights? What are they rights to? Who has the correlative duties? Can we legitimately hold the members of other societies to the standards of our culture? What methods of argument and implementation are available in this area? The practical implications of these theoretical issues are also explored. *M. Green. Autumn.*

**25700-25800. American Legal History I, II.** (=HIST 28300-28400/38300-38400) This two-quarter lecture/discussion course explores the role of law in history and of history in law, through a survey of American legal developments from the colonial era to the present. It treats the law not as an autonomous process or as a science, but as a social phenomenon inextricably intertwined with other historical forces. Attention is paid to developments in private law, public law, jurisprudence, the judiciary, and the interrelationships of law, society, economy, and polity. *W. Novak. Winter, Spring.*

**26600. Original Intent: Historical Roots of Modern Controversy.** The Federal Constitution (1788) and the Bill of Rights (1791) contain many provisions that today stir historical debate over the original intent and understanding of these fundamental texts. Topics include limits on subversive or offensive speech, church/state relations, citizens' rights to own firearms, the rights of state governments, "natural" rights, legislative modification of private property rights, and the power of courts to invalidate statutes. We read both contemporary writings from the early republic and later interpretive writings by historians, legal scholars, judges and others. We do not focus on the content of modern constitutional case law, although we evaluate some Supreme Court opinions that make historical assertions about the original meaning of particular Constitutional provisions. *J. Hart. Winter.*

**26901-26902. African-American History.** (=HIST 27200-27300/37200-37300) In a comparative framework, this two-quarter course explores the historical forces that shaped the work, culture, and political struggles of African-American people in the United States.

**26901. African-American History to 1877.** (=HIST 27200/37300) This is a lecture course examining selected topics in the African-American experience from the slave trade to slavery emancipation. Each lecture focuses on a specific problem of interpretation in African-American history, all framed by an overall theme: the "making" of an African-American people out of diverse ethnic groups brought together under conditions of extreme oppression, and its corollary, the structural constraints and openings for resistance to that oppression. Readings emphasize primary sources (especially autobiographical materials), supplemented by readings in important secondary sources. *T. Holt. Autumn.*

**26902. African-American History since 1877.** (=HIST 27300/37300)

This course covers the period from the end of the Reconstruction to the present. *J. Saville. Spring.*

**27000. Law and Society in Early America.** (=HIST 27001/37001) This upper-level undergraduate colloquium considers law, legal institutions, and legal culture within the lived experience of colonial and revolutionary America. It emphasizes the interaction of social development and legal development, and will explore the breadth of every day experience with legal institutions like the jury, with courts as institutions for resolving disputes. *E. Cook. Spring.*

**27100. Human Rights II: History and Theory of Human Rights.** (=HIST 29302/39302, HMRT 20200/30200, INRE 36400, ISHU 28800/38800, LAWS 41300) This lecture course is concerned with the history and theory of the modern human rights regime. It sets out to answer some simple question: Why should anyone want or need human rights? Why did certain nations in the eighteenth century and the community of states in the twentieth century find it necessary to institute regimes of human rights? Along the way, we explore the similarities and differences between natural law, human rights, civil rights, and humanitarian law. In contrast to triumphalist accounts that speak of an “age of rights,” we are concerned with the tenuous nature of human and, for that matter, civil rights regimes. We wonder what happens in times and in situations when there are no human rights to speak of or when rights are gerrymandered to fit prevailing political and cultural conditions. *M. Geyer. Winter.*

**28900. Environmental Policy and Decision Making.** (=ENST 24700, PBPL 22500) This course considers theories concerning the origins of environmental problems and policy options for their resolution. It also analyzes public opinion concerning the environment, theories of the relationship of environmental knowledge and attitudes to environmental behavior, and how environmental education might increase the effectiveness of public participation programs and democratic capacity. *R. Meyers. Winter.*

**29001. Sport, Society, and Science.** This interdisciplinary course draws faculty from across the University to examine and to integrate important elements of the world of sport and competition, including sport and society; race and sport; legal, economic and public policy frameworks; psychological and neurological aspects of competition; the physics of sports; and statistical measurements of performance. *D Hutchinson, A. Sanderson. Winter.*

**29300. Environmental Philosophy and Ethics.** (=ENST 28000) This course reviews basic ethical and value theories and surveys a range of environmental ethics and issues, including animal rights. It links ethical theory to action by focusing on public values and attitudes, their relationship to environmental behavior, and how environmental education may contribute to increasing environmental consideration and democratic capacity. *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. *D. Hutchinson. Winter.*