

LAW AND SOCIETY

INTERDISCIPLINARY 300, THREE SEMESTER CREDITS

Law, Justice, and the Legal System



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Office Hours M/W 1:30-2:30; T/TH 3:00-4:00

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<https://www.youtube.com/channel/UCZWxocmAzVs1YJeENv3Pe2Q>

Dear Students:

Greetings and welcome to a fascinating intellectual journey across the landscape of law, justice, and society. My name is Gene Straughan and I am the instructor. My educational background is in the disciplines of political science, law, and criminal justice. It provides me with a social scientific understanding of the political, economic, and cultural aspects of society, especially within the context of the American legal system. Along with this course, I teach American National politics, state and local government, constitutional law, political philosophy, Native American law, introduction to criminal justice, comparative criminal justice, criminal procedure, criminal law, juvenile delinquency, justice issues and public policy, introduction to social science, and other courses at Lewis-Clark State College. My research interests focus on how public policy seeks to resolve legal conflicts within the United States between a dominant culture and various subcultures, probing the significance of the unwritten character of the law and calibrating the proper weight to be assigned to societal values. I also work closely with state and federal agencies on projects regarding crime prevention, law enforcement, prosecution, adjudication and corrections. I continue to help governors, legislators, administrators, and others to improve the funding of higher education. I consider myself very fortunate because I thoroughly enjoy teaching, research, and public service. My professional efforts reflect a commitment to sharing my experiences with academic colleagues, the community, and most importantly students.

What makes the study of the legal system interesting is the relationship between law, justice, and society. The law is a complex, dynamic social construction with an evolving spirit. Anthropologist Adamson Hoebel once wrote that finding a clear definition of law is as difficult as finding the Holy Grail. For lawyers, the law is simply what they practice and what the state requires of its citizens. But the law constitutes much more. According to social scientist Max Weber, laws are evolving norms that are directly guaranteed by legal coercion. Any behavior deviating from social norms can draw a criminal and/or civil sanction imposed by the organized forces of the government. Law may speak with the express authority of the state, but its formal and informal meaning are as malleable as the cultural, economic, and political forces of society. Iredell Jenkins explains that law “is very much like an iceberg; only one-tenth of its substance appears above the social surface in the explicit form of documents, institutions, and professions, while nine-tenths of its substance that supports its visible fragment leads a sub-aquatic existence, living in the habits, attitudes, emotions, and aspirations of men.” The law and the American legal system is neither altruistic nor egotistic, but a human enterprise—one with moral spirit, selfishness, and even dangerous arrogance. As such, the human capacity for justice makes law possible, but the human inclination to injustice makes law absolutely necessary.

A prime example is the struggle of the American legal system to reconcile the competing interests of an evolving democratic society. What was once a nation dominated by white, Protestant, property-owning males has become more open and respectful of others. Such

dramatic changes have raised compelling legal questions. What is the proper relationship between such societal values as democracy, morality, patriotism, safety, liberty, equality, and diversity? How can the legal system strike a fair balance between such competing values? How can the law protect these values and punish threats to them? Other questions are equally compelling. What can be done to ameliorate the lingering effects of unequal treatment of women, minorities, and the poor? How can the state control crime without sacrificing civil liberties? There are no easy answers to the intractable problems the law is expected to solve. Commonly cited solutions might work or might only be symbolic and even make the problems worse. This is not to say that efforts to resolve legal conflicts are futile. In many respects, the human condition has progressed significantly as a result of the efforts of the American legal system to discover solutions to societal problems.

The relationship between law, justice, and society is an important one. To understand the law is to learn not only how the legal system shapes human life, but also the opportunities open to people for using the law to improve their societal conditions. Justice Louis D. Brandeis echoed these sentiments best when he observed that “the study of law should be introduced as part of a liberal education, to train and enrich the mind...I am convinced that, like history, economics, political science, sociology, and metaphysics—and perhaps even to a greater degree than these—the law could be advantageously studied with a view to the general development of the mind.” This intellectual enterprise requires students to shed their prejudices and think critically about the social, economic, and political issues of the legal system. Students are invited to discover what sociologist C. Wright Mills called “the sociological imagination.” He described this state of mind as “the capacity to shift from one perspective to another—from the political to the psychological; from the examination of a single family to comparative assessment of the national budgets of the world. It is the capacity to range from the most impersonal and remote transformations to the most intimate features of human self—and to see the relations between the two.” The sociological imagination enables students to open their minds and think critically about the legal system. Such a richer appreciation of the law can only lead students to become more committed to keeping the legal system responsive to the people and problems of the twenty-first century. Remember that nothing is graven in stone. There are no final lessons to understanding the complex but dynamic relationship between law, justice, and society.

Sincerely yours,

Gene T. Straughan, Ph.D, Director and Professor of LCSC Justice Studies Program

INTRODUCTION TO LAW AND SOCIETY

COURSE DESCRIPTION: The goal of this course is to provide a social scientific understanding of the relationship between law, justice, and society within the United States. The course is organized into two sections: (1) Foundations of American Law and (2) Applications of American Law. The first part introduces not only the origins and sources of the law, but also the many ways the legal system attempts to reconcile conflicts between competing political, economic, and cultural forces. Competing values about the “proper” balance of security, morality, liberty, and equality within a democracy are examined from several philosophical perspectives. Detailed attention is also accorded to the letter and spirit of the law, the weighing of rival legal claims, and the exercise of discretion by the government institutions which are responsible for enacting, enforcing, and interpreting the law. Section Two examines the applications of public and private law, covering the state regulation of relationships arising between members of society. The legal principles governing a range of common interactions between individuals are examined from the standpoint of the law of contracts, property, wills, estates, personal injuries, domestic relations, and businesses. The criminal justice system is also discussed to explore how the law deals with conflicting expectations to control crime while respecting rights and doing justice. By focusing on these specific areas, the course will provide students with an opportunity to accomplish the following objectives:

- A. To develop critical thinking about the purpose and function of the American legal system and the dynamic relationship between law, justice and society.
- B. To appreciate how democracy, morality, liberty, equality, race, gender, and wealth intersect with the passage, enforcement, and interpretation of law.
- C. To understand the numerous ways the law regulates relations between private individuals, ranging from contract and property to tort and family matters.
- D. To explain the substantive and procedural aspects of the law with regard to regulating conflicts arising between personal choices and state interests.

COURSE TEXTBOOKS: The reading materials for the class consist of Beth Walston Dunham and John DeLeo, *Introduction to Law* (Chicago: Cengage Learning, 2020) and Ethan Katsh, et al., *Taking Sides: Clashing Views on Controversial Legal Issues* (London: McGraw-Hill, 2020). In writing these texts, the authors have concentrated on the historical struggle of the American legal system to work out conflicts between competing political, economic, and social forces within a modern democratic society. *Introduction to Law* provides thorough coverage of the purposes, functions, structures, principles, processes, and perspectives of the law. *Taking Sides* contains articles written by scholars who examine how compelling legal issues (patriotism, security, morality, liberty, diversity, equality, discretion, culpability, and punishment) intersect with the passage, enforcement, and interpretation of the law. These textbooks go beyond simply presenting general information about the American legal system. They also show how social scientists explain the principles and problems of law and justice.

COURSE WORK AND EVALUATION: The work requirements for this course consist of a research paper and two essay exams—each are worth 100 points and amount to 300 possible points. Each test will be made up of four essay questions designed to evaluate the ability of students to comprehend, analyze, and apply principles of the legal system. The research paper must examine some dilemma of law and justice by analyzing how government has dealt (empirical component) and should deal (normative component) with the situation. The topic of the research paper will be proposed by the student and approved by the instructor. The paper must be a minimum of eight pages long and draw from and cite at least six academic sources, including four from scholarly journals. In addition, the students may receive extra credit by taking part in class discussions and completing any of the end-of-chapter lessons worth three points each. Students are also required to write course assignments in their own words, except for those few occasions where they find it necessary to quote and cite authorities. The course work is structured to evaluate not only the student's knowledge and application of the subject, but also his or her ability to analyze and synthesize it. In terms of the grading scale, the research paper will account for 33% of the course grade and the examinations 67% (or 33% for each test) with the following breakdown:

<u>Grade In Course</u>	<u>Percent of Total</u>	<u>Range of Points</u>
A	100-93%	300-278
A-	92-90%	277-269
B+	89-87%	268-260
B	86-83%	259-248
B-	82-80%	247-239
C+	79-77%	238-230
C	76-73%	229-218
C-	72-70%	217-209
D+	69-67%	208-200
D	66-63%	199-188
D-	62-60%	187-179
F	59-00%	178-00

SUGGESTED STUDY METHODS: No method of study can meet the diverse needs of each student. Still a number of strategies can be used to gain a better perspective of the subject. Before attending class, the students should read the materials and carefully review the chapter questions assigned by the syllabus. This will allow students to familiarize themselves with the focus of the lectures and at the same time allow them to digest the reading assignments. After the readings have been completed, the students should outline the material around the basic principles and problems of the American legal system. The outlines should also accentuate the reading materials which correspond to the end of chapter lesson questions. This will enable students to focus on what the questions are asking and respond by considering the relationship between law, values, and society within the United States. The next strategy is to attend class. After all, the classroom is where the greatest amount of learning takes place through an open dialogue. Plus the examination questions will be taken from the class lectures and reading materials. It is important to realize that students actually learn what they read and write about on a regular basis. So the key to unlocking the doors of Law, Justice, and Society is to take the class assignments seriously.

CALENDAR FOR LAW AND SOCIETY

Section 1: Foundations of the Law	Dates	Text Assignment	Page #s
1. American Law and the Legal System	8/22	Introduction to Law: Taking Sides, 2020:	01-023 232-251
2. The Multiple Dimensions of Law	8/29	Introduction to Law: Taking Sides 2020:	108-150 38-061
3. The Legislature and Statutory Law	9/07	Introduction to Law: Taking Sides 2020:	58-075 216-231
4. The Executive and Administrative Law	9/14	Introduction to Law: Taking Sides 2020:	76-107 118-132
5. The Courts and Judicial System	9/21	Introduction to Law: Taking Sides 2020:	24-057 174-193
6. Jurisdiction and Legal Reasoning	9/28	Introduction to Law: Taking Sides 2020:	152-181 16-037
7. Legal Professionals and the Law	10/05	Introduction to Law: Taking Sides 2020:	182-215 74-097
8. Essay Examination for Section One	10/12	Readings Listed:	All
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Section 2: Applications of the Law	Dates	Text Assignment	Page #s
1. Injury, Civil Liability, and Tort Law	10/17	Introduction to Law: Taking Sides, 2020:	254-332 62-073
2. Contractual Obligations and Law	10/24	Introduction to Law: Taking Sides 2020:	478-514 282-301
3. Real and Personal Property Law	10/31	Introduction to Law: Taking Sides 2020:	434-477 352-371
4. Family Law and Domestic Relations	11/07	Introduction to Law: Taking Sides 2020:	334-403 302-323
5. Business Law and Regulation	11/14	Introduction to Law: Taking Sides 2020:	516-567 194-215
6. The Law of Criminal Procedure	11/28	Introduction to Law: Taking Sides 2020:	604-657 340-351
7. Criminal Law and Punishment	12/05	Introduction to Law: Taking Sides 2020:	568-603 98-117
8. Essay Examination for Section Two	12/14	Readings Listed:	All

GENERAL EDUCATION LEARNING OUTCOMES: Upon successful completion of this course, you should be able to demonstrate the following competencies:

1. Evaluate concepts and perspectives from multiple disciplines related to ethics and values.
2. Analyze how individuals/societies shape or are shaped by ethics and values.
3. Demonstrate self-reflection, broadened perspective, and respect for diverse viewpoints by exploring issues related to ethics and values.
4. Integrate and apply accumulated knowledge to develop strategies or positions that address issues of ethics and values.