

History 3211

American Legal History

Course Description

History 3211 is an overview of the role of law in American history from the colonial period to the present. The course will examine how laws shaped American society and how economic, political, social and cultural changes impacted the nation's legal system. Recurring themes will include law as an instrument of revolution and conservatism, the role of law as a mechanism for capitalist development, and shifting legal categories of personal status in both the nineteenth and twentieth centuries.

Course Objectives

This course seeks to introduce students to the role of law in shaping American society. Students will learn how to read case law, statutes, and legal treatises and integrate this material into their understanding of broader trends in American history. Analysis of this material will occur in class discussions and written work that emphasize critical thinking, as well as in presentations of students' work to a public audience outside the classroom.

Learning Outcomes

1. Students will begin to understand the complex and powerful influences of legal institutions and actors upon American society.
2. Students will develop their critical thinking skills.
3. Students will improve their ability to write clearly and analytically.
4. Students will improve their ability to make clear and engaging oral and visual presentations.

Readings:

Copies of the following books are available for purchase in the University bookstore and on reserve at Smith Library. You will be expected to complete all the assigned readings and be prepared to discuss them in class.

Kermit Hall (ed.), *American Legal History: Cases and Materials* (3rd edition) (ALH)

Michael Grossberg, *A Judgment for Solomon*

Nancy Woloch: *Muller v. Oregon: A Brief History with Documents*

Course Requirements

1. **Professional Engagement:** All students in this class are expected to conduct themselves in a mature and professional manner. Your professional engagement in this class will be assessed based on the following criteria:
 - a. **Attendance:** In order to succeed in this class, you must be present at nearly all of the class sessions. Habitual absenteeism negatively impacts both you and your classmates. Consequently, I have a strict attendance policy in my class. You are allowed two absences over the

course of the semester. The university makes no distinction between excused and unexcused absences, and leaving class early or arriving more than 5 minutes late counts as an absence. After these two absences, you will receive a 1/3 of a grade penalty on your professional engagement grade for every additional absence. If this attendance policy will be a problem for you, come see me **IN ADVANCE**. I will not consider explanations or requests for leniency after the fact.

- b. **Participation:** Students are expected to be active participants in this course. This means you must complete all reading assignments in a timely fashion, and come to class prepared to engage your fellow classmates in a lively discussion. In addition, on a rotating basis students will be “on call,” which means they will produce questions for the day’s class discussions and assist me in leading those discussions. Your performance in the classroom will serve as the primary basis for your professional engagement grade.
- c. **Professional Conduct:** I expect all students in this class to treat their classmates, me, and anyone else who becomes involved with the class in a mature and respectful manner inside and out of the classroom. That means turning off all handheld electronic devices for the duration of our class periods; if students fail to do so, I will require everyone to drop such devices at the front of the room at the beginning of class. As a general rule, I will not allow the use of laptops in class; if you have a particular reason why you need to use your laptop, you may ask for permission. Holding private conversations during the class is also unacceptable. Students who violate these standards of behavior will receive a significant penalty in their class participation grade.

Outside the classroom, professional conduct means addressing class-related e-mails in a respectful fashion. When writing to me or to other men or women who are not your peers, please address the person by their title (Dr. Ringel, Dean Stoneking, Mr. or Ms. Smith) and be sure to spell their name correctly. If the e-mail is requesting their assistance in writing or in person, please give them a reasonable amount of time to fulfill the request, recognizing that they have multiple other obligations beyond working with you. When dealing with me, requests that are not made in such a timely fashion will not be honored, absent exceptional circumstances.

- 2. **Writing Assignments:** Students will write take-home essays for their midterm and final exams; details on these exams will be forthcoming, but they will focus on students’ ability to write essays that establish that they have done the required reading and viewing for the class and that they have the ability to consider these

texts critically in response to class discussions. In addition, students will write a 3000-3500 word research essay on a law-related subject of their choosing. In order to guide you toward a successful completion of this assignment, I will require you to complete a series of preliminary assignments, including an abstract, an annotated bibliography, an outline, and a work-in-progress, all of which will be incorporated into your final grade for the assignment. I will provide you with guidelines for each of these assignments during the first two weeks of the semester.

I expect my students to be able to construct coherent arguments and to express themselves in clear, grammatically correct English. If you struggle with writing, I suggest you contact the HPU Writing Center, located on the fourth floor of Smith Library. The Writing Center provides writing assistance for students at any level of study – from freshman to graduate – at any stage in the writing process, from invention through revision. The Writing Center staff will be available in a variety of locations around campus during various hours throughout the day, Monday through Friday. Go to <https://highpoint.mywconline.com/> to make an appointment. Appointments can only be made through the online portal. Appointments will be available starting January 15, 2014.

Writing consultants do not proofread or edit students' papers *for* them, but they do work *with* students to help them develop strategies for improving their writing in light of their respective assignments, instructors, and writing styles. For more information, contact the Writing Center Director, Dr. Leah Schweitzer, at lschweit@highpoint.edu or (336) 841-9106.

3. **Research Presentations:** All students in this class will produce a 10-15 minute presentation of their research. Everyone will be required to submit their research abstract to the university's HPU Research and Creativity Symposium (High-PURCS) committee and, if accepted, present their work on April 24. If the abstract is not accepted, students will not be penalized but will still be required to present their work to a university audience at a time to be determined in April or during exam period.
4. **Grading and Assessment:** The final grade will be computed from a weighted average of the individual grades you earn for your class participation (including your questions submitted to the class website), written assignments, and exams. Your class participation will be determined both from the quality and quantity of contributions to the class.

The course requirements will be weighted as follows in determining your final grade for the course:

Take-Home Midterm	10%
Take Home Final	20%
Research Paper (including all assignments)	40%

Paper Presentation	10%
Professional Engagement	20%

5. The Fine Print

- a. This syllabus is a road map for this class but it is not set in stone. I reserve the right to make changes in the syllabus with proper advance notice given to you.
- b. You must complete all assignments to receive a passing grade.
- c. All papers are due at the times stated below. You must submit papers electronically. All responsibility for technical problems such as e-mails not received by me lies with you. Late papers will automatically be marked down 1/3 of a grade for each day they are late (the first day begins at the time they are due and weekend days count) unless you have written documentation from your advisor, an academic Dean, or from University medical services. Computer problems are **never** an acceptable excuse for late work.
- d. Students are responsible for checking their High Point University e-mail addresses regularly for information regarding this course. Failure to check this e-mail address is not an acceptable excuse for missing notifications about changes in assignments or deadlines for this class.
- e. If you have a question about a grade you receive on a paper, test, or for the course, please come to my office hours or make an appointment. I will not discuss grades over the phone or e-mail. However, I am happy to discuss questions about the course material via e-mail.
- f. Academic Honesty: The work you submit for this course should be completely and solely your own. This means that any and all quotations from the words and thoughts of others must be appropriately acknowledged in your assignments. To do anything less is stealing. If you have any questions about plagiarism, please talk to me about them in advance. I will be happy to help you sort through any confusion. Any evidence that you have failed to follow these rules will be immediately and thoroughly investigated, and any violations of the honor code will be submitted to the Honor Court. Be forewarned: I consider cheating to be a very serious and utterly avoidable offense. Expect no leniency from me in cases of suspected cheating/plagiarism.
- g.. Students with Disabilities: Students who require classroom accommodations due to a diagnosed disability must submit the appropriate documentation to Disability Support in the Office of Academic Development, 4th Floor Smith Library. Student's need for accommodations must be made at the beginning of a course. Accommodations are not retroactive.

CLASS SCHEDULE

I. Origins

W Jan 8 Course Intro

F Jan 10 How to Read a Case
Reading: ALH, 235-240

M Jan 13 The Sources of Law in America

Reading: ALH 12-30, 37-41

W Jan 15 Law and the Creation of American Slavery

Reading: ALH, 43-62

F Jan 17 Sparks for a Revolution?

Reading: ALH, 27-37, 66-77

M Jan 20 NO CLASS- Martin Luther King Day

II. Revolution and the New Nation

W Jan 22 Law and the American Revolution

Reading: ALH, 78-91

F Jan 24 Republican State Constitutionalism

Reading: 91-107

Abstracts for Research Papers due to me by 5 pm

M Jan 27 Republican National Constitutionalism

Reading: ALH, 107-123

W Jan 29 The Establishment of Federal Powers

Reading: ALH, 127-144

III. The Transformation of American Law: The Economy

F Jan 31 & M Feb 3 Commerce and Federalism

Reading: ALH, 148-161

W Feb 5 Corporations and Labor

Reading: ALH, 168-184

F Feb 7 Property Law

Reading: ALH, 184-196

Annotated Bibliography for Research Paper due by 5 pm

Take-Home Midterm Assignment Posted by 5 pm

M Feb 10 Contract Law

Reading ALH 196-203

W Feb 12 Tort Law

Reading ALH 203-214

IV. The Transformation of American Law: Antebellum and Civil War-Era Society

F Feb 14 & M Feb 17 Family Law
Readings: *A Judgment for Solomon*, 1-118

W Feb 19 Law and the Press
Reading: *A Judgment for Solomon*, 119-241

Th Feb 20 Take-Home Midterm Assignment Due by 5pm

F Feb 21 Race and the Law
Reading: ALH, 218-235, 274-277

M Feb 24 Dependents and the Law (Native Americans and Women)
Reading: ALH 287-290, 312-315, 323-325

W Feb 26 Secession and Emancipation
Reading: ALH, 249-258, 262-267

V. The Legal System of an Industrial Society

F Feb 28 Race and the Courts I (African-Americans)
Readings: ALH, 267-282

Optional Rewrites for Take-Home Midterm Assignment due at 5 pm

MWF Mar 2, 4 & 6 NO CLASS- SPRING BREAK

M Mar 10 Race and the Courts II (Asians and Latinos)
Readings: ALH, 294-311

HIGH-PURCS abstracts due to me at 9 am

W Mar 12 & F Mar 14 NO CLASS- Research Meetings

Th Mar 13 HIGH-PURCS abstracts due to committee at 5 pm

M Mar 17 Criminal Law
Reading: ALH, 332-350
Research Paper Work-in-Progress Due at 9 am

W Mar 19 Legal Formalism and Legal Realism
Reading: ALH, 351-363, 467-472

F Mar 21 The Growth and Limits of Economic Regulation
Reading: ALH, 363-384

M Mar 24 Substantive Due Process
Readings: ALH, 385-404

W Mar 26 & Fri Mar 28 *Muller v. Oregon* and Sociological Jurisprudence
Readings: *Muller v. Oregon*

VI. Civil Rights and Civil Liberties

M Mar 31 The Origins of Civil Liberties
Reading: ALH, 411-429, 444-449

W April 2 Civil Rights Before WWII
Reading: ALH, 450-461

Th Apr 3 Complete Rough Draft of Research Paper due at 5 pm

F April 4 Civil Liberties During WWII
Reading: ALH, 429-443

M April 7 & W April 9 The New Deal and the Rise of Legal Liberalism
Reading: ALH, 472-492

F Apr 11 & M Apr 14 The Warren Court I: Civil Rights
Reading: ALH, 495-535

W Apr 16 The Warren Court II: Civil Liberties
Reading: ALH, 535-554

Take-Home Final Posted by 5 pm

Th Apr 17 Final Draft of Research Paper Due at 5 pm

F Apr 18 & M April 21 NO CLASS- Good Friday and Easter Monday

W Apr 23 Modern Presidency and Separation of Powers
Reading: ALH, 629-655

Th Apr 24- Reading Day- High-PURCS presentations

W Apr 30 **Final Exam Period 12-3 pm. Take-Home Final Assignments Due at noon**