Legal Theory Syllabus  
Tues/Thurs 6:00PM-8:40PM  
Prof. Pi

1 Administrative Matters

My office is 310 in Hazel Hall. Generally, if my door is open, feel free to stop by. You may email me to schedule an specific time to meet if you prefer. My email address is dpi@gmu.edu. For matters requiring immediate attention, my office phone number is (703) 993-8542.

As per Academic Regulation 4-1, attendance is mandatory. I do not permit the use of electronic devices (laptops, tablets, or phones) during class. I encourage you take notes by hand both in this course and also in your other courses. All electronic devices should be set to “vibrate” or “mute.” Should you audibly receive an electronic communication during class, you will receive a one-increment reduction in your final grade.

As an exception to the prohibition on electronic devices, I do allow audio recording of the class, provided it is for your personal use (or for an absent classmate) and does not pose a distraction.

2 Objectives and Expectations

This course has two objectives. The primary objective is to teach you how to argue clearly and rigorously about legal theory. As you will already understand well by the time you take this course, the law requires a greater level of clarity and rigor than one would employ in ordinary discussions. The standards of clarity and rigor in analytic philosophy are more stringent still. Your first concerns when reading the homework should be:

1There is empirical evidence that this is a superior learning method. For example, see https://www.scientificamerican.com/article/a-learning-secret-don-t-take-notes-with-a-laptop/.  

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1. To identify the salient propositions expressed in the text.
2. To extract the argument and its structure from the text.
3. Evaluate the plausibility of the argument’s premises and the validity of the inferential moves.
4. Formulate possible objections and counterarguments.
5. Identify relationships with other arguments.

In this course, we learn by doing. I expect you to read actively, and to have outlined the arguments from the reading. I also expect you to have prepared and outlined counterarguments to and evaluations of the arguments we read.

The secondary objective will be to gain familiarity with intellectual history, the literature, and the principal positions that leading authors have taken with respect to the main theoretical issues in the law.

3 Grading and Exam

This course will be graded on the following point system.

First, every student will be expected to select a topic and write a blog entry (I will set up a private blog for the class) summarizing arguments from the reading and offering their own novel arguments on the subject. Details on what is expected will be specified in class. Broadly, each student will be required to write at least one blog entry (minimum 1500 words) and one significant response to another student’s blog entry (minimum 1000 words). My hope is to encourage a lively discussion and interest in the topics we will be exploring. To that end, participation above and beyond the minimum requirements will be recognized when it comes time for grading.

Next, I will expect each student to present a topic from the reading and lead the discussion for that topic. Based on the quality of your presentation, I will award 0–5 points.

I will also award another 0–5 points for general participation for the entirety of the course. These points will be awarded on the basis of both in-class participation and enthusiastic discussions on the blog.

Finally, at the conclusion of the course, each student will submit an essay explaining and critiquing one of the arguments we read about during the class. The essay should be in the range of 2000–2500 words (or 8–10 pages). The essays will be worth 0–10 points.
The final grade will be calculated on the basis of:

<table>
<thead>
<tr>
<th></th>
<th>Maximum available points</th>
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<tbody>
<tr>
<td>Blog Entries</td>
<td>10</td>
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<tr>
<td>Argument Presentation</td>
<td>5</td>
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<tr>
<td>Class participation</td>
<td>5</td>
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<tr>
<td>Essay</td>
<td>10</td>
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4 Course Materials

The reading requirements for this course are substantial. I anticipate that preparation for each class will require 2–3 hours of reading and outlining. However, given the condensed schedule of a summer course, I may elect to revise the assigned readings as we progress if I sense it to be more onerous than I anticipated. My expectation in designing the course is that this should be a manageable workload, and so a paring down, while possible, should not be expected. The main course material will be:


Additional required readings will be available at my website:


## 5 Homework

<table>
<thead>
<tr>
<th>Class</th>
<th>Topic</th>
<th>Christie &amp; Martin</th>
<th>Other Material</th>
</tr>
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</table>
| 1.    | Ancient Perspectives  
—Hammurabi  
—Plato & Aristotle | 20–93 | |
| 2.    | Natural Law I  
—Aquinas | 147–224 | |
| 3.    | Natural Law II  
—Finnis  
—Fuller | 224–255, 266–280 | |
| 4.    | Natural Rights I  
—Locke  
—Kant | 281–366 | |
| 5.    | Natural Rights II  
—Rawls  
—Nozick | 366–389, 469–495  
Nozick | |
| 6.    | Positivism I  
—Hobbes  
—Hume  
—Bentham | 496–619 | |
| 7.    | Positivism II  
—Austin | 620–695 | |
| 8.    | Positivism III  
—Kelsen  
—Hart/Devlin Debate  
—Hart/Fuller Debate | 696–717  
Hart (1), Hart (2)  
Devlin, Fuller | |
| 9.    | Positivism IV  
—Hart/Dworkin Debate  
—Hart/Raz Debate | 717–751  
Dworkin, Raz, Coleman | |
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<th>Class</th>
<th>Topic</th>
<th>Christie &amp; Martin</th>
<th>Other Material</th>
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<tr>
<td>10.</td>
<td>Formalism</td>
<td>—</td>
<td>Posner, Grey, Langdell, Scalia, Schauer</td>
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<td></td>
<td>— Langdell</td>
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<td>— Scalia &amp; Textualism</td>
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<td>— Schauer</td>
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<td>11.</td>
<td>Legal Realism I</td>
<td>752–795, 832–855</td>
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<td></td>
<td>— Maine</td>
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<td>— Holmes</td>
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<td>12.</td>
<td>Legal Realism II</td>
<td>855–947</td>
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<td></td>
<td>— Pound</td>
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<td></td>
<td>— Frank</td>
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<td></td>
<td>— Llewellyn</td>
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<td>13.</td>
<td>Gender, Race, and Politics</td>
<td>1083–1166</td>
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<td>— Critical Legal Studies</td>
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<td>— Feminist Legal Theory</td>
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<td>— Critical Race Theory</td>
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<td>14.</td>
<td>Law &amp; Economics</td>
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<td>Coase, Calabresi &amp; Melamed, Calabresi, Becker</td>
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<td>— Coase and Cathedral</td>
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<td>— Calabresi</td>
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