

# SYLLABUS

## Political Science 498

**Section:** 001 (10:00am-10:50 am, MWF, PH3302)  
**Instructor:** Tim Kalinowski  
**Office:** PH 0416  
**Office Hours:** 11:00am-11:45am, MW  
11:00am-11:30am, F  
9:00-9:20am; 12:20pm-1:00pm, T/Th  
or by appointment  
**Office Phone:** 650-3865 or 650-3572  
**Email:** tkalino@siue.edu (put POLS 498 in your subject line)  
**Website:** www.timski.com\POLS498  
**Texts:** Primary Text:  
Dworkin, Ronald: *Taking Rights Seriously* (Cambridge, Massachusetts:  
Harvard University Press 1978)

First Secondary Text:

Scalia, Antonin: *Scalia Speaks: A Reflection on Law, Faith, and Life Well Lived* (New York: Crown Forum 2017)

Second Secondary Text:

Breyer, Stephen: *Making Our Democracy Work: A Judge's View* (New York: Knopf 2010)

There are also some readings available in PDF form on Blackboard.

### THE PURPOSE OF THIS COURSE IS:

To explore contemporary legal theory; emphasis on law and morality, law and society, law and economics, judicial discretion, and fundamental doctrines and principles of a legal system.

### PREREQUISITES:

At least Junior classification and accepted to any of the Philosophy, Political Science, or Pre-Law programs (majors or minors).

### OBJECTIVES:

Students should gain a better understanding of:

the foundations of contemporary (western) legal theory;  
the conflicts between legal order, individual rights, and morality; and  
the role of the judicial system in contemporary (western) legal theory.

## **READING ASSIGNMENTS & READING JOURNAL:**

This is primarily a reading and discussion course. There are significant readings from the three text books and more to be found on Blackboard. During the first week of class, please download all of the readings on Blackboard so that you will have them available to you when needed.

You are expected to keep a reading journal and bring it to class every day. At the beginning of each class, the instructor will initial your writings for that day's readings. While you may include notes from the reading in your journal, you are expected to take 15 minutes after each reading and simply think about the material. After 15 minutes you should write down in your journal at least 5 thoughts and/or questions about that material to be discussed in class for the day that the reading is assigned.

Readings should be completed prior to the class scheduled. Preferably, you would have a paper copy of the reading available for review in class on the day assigned. Your writing for the day should be complete prior to your arrival in the classroom (as opposed to writing your thoughts while the instructor is reviewing the journal entries of other students). Please recognize that this is a tentative schedule and be aware that additional readings or omitted readings maybe be announced in class.

## **LECTURES:**

The lectures in this course will follow the same general topics as are to be found in the readings, but sometimes with different emphasis or viewpoint. You will be expected to participate in class discussions. **Attendance is mandatory. Given the number of students in this class, each student's absence diminishes the quality of the class.** You will be expected to know and understand lecture materials thoroughly. This is primarily a discussion based class to understand various points of view about the topic being discussed.

*For undergraduates, your journal, attendance, and class participation are 50% of your grade. If you think of this portion of your grade as worth 50 points, each omitted journal entry or absence is a point deduction. I start deducting points after the fifth such omitted journal entry or absence from class.*

## **PROJECT:**

### Base Project:

Your journal is a collection of your thoughts pertaining to each reading. The project should answer the broader picture regarding the functioning of the entire legal system in the United States. In particular you are to address how a society continues to function as a majoritarian democracy while protecting freedoms and rights for both the majority and minority members of society. In particular, there has been a strong shift to resolve every major societal issue in the courts. Your project is to explain your thoughts based upon the collection of readings regarding how a majoritarian democracy can continue to exist given the current influence of the courts. You should use readings to illustrate your understanding of this issue with examples, arguments, critiques, and supporting statements. There is no specific page requirement, but you cannot adequately address this in less than 15 pages.

As an analogy, there is an old saying that you can't see the forest for the trees; you can't see the trees for the forest. If you treat each individual reading and the reflection on that reading as the trees, you can treat this project as the forest. Once you have the collection of readings (the trees), your project is to illustrate your understanding of the entire legal system (the forest).

#### Graduate Student Differentiation:

You are to undertake the same project, but it is a higher percentage of your grade and the depth of thought and material should represent that higher percentage (if you can quantify such things, the expectations are about twice that of the undergraduate project -- i.e. twice as thorough [that might be read as twice the length, except graduate students should be able to write more concisely]). You should expect to not only use the readings from this class, but you are expected to bring in other primary sources (possibly mentioned in the assigned readings, but to be included in a bibliography) to supplement your source of examples, arguments, critiques, and supporting statements.

#### **EXAMINATION:**

There will be one exam -- during finals week. The exam will be in an essay format and **you are expected to bring a bluebook** of sufficient length to contain 2 hours of writing. The topic of the final exam will become apparent on the last day of regular classes.

The final exam will be given **according to the registrar's schedule** as stated in the Academic Calendar.

#### **COURSE FORMAT:**

The format of the course will be primarily discussion. Relevant questions are always in order. The lectures will be used to stress, emphasize, and reinforce the importance of key matters mostly also covered in the text. Current events will also be the basis of discussion at more or less regular intervals.

## **GRADES:**

Your final grade will be determined on a percentage basis roughly as follows:

90-100% = A

80-89% = B

70-79% = C

60-69% = D

below 60% = F

The course grade for undergraduate students will be determined as follows:

50% - Journal/Attendance/Discussion

20% - Project

30% - Final Exam

The course grade for graduate students will be determined as follows:

30% - Journal/Attendance/Discussion

40% - Project

30% - Final Exam

## **BLACKBOARD:**

The use of Blackboard in this course will be limited to providing documents to students and making announcements to the class. Grades will not be posted to Blackboard. Keeping up with your grades to gauge your progress in this course is your responsibility. Blackboard will not be used to turn in your research paper. Follow the instructions that will be provided regarding the research paper.

The usual restrictions and/or regulations in university classes will apply in this course:

1) Cheating (including plagiarism) will not be tolerated; those who are caught cheating will fail the course.

2) Subject to other university policy, attendance is required, and students may be penalized for missing class.

3) Tests are to be taken when scheduled. Make-up exams will be given only for compelling reasons. Assignments are due when scheduled. Late assignments may be accepted at the instructors discretion, but if accepted, points will be deducted.

4) **No photographing, recording, or otherwise capturing the image or voice of students or faculty is allowed without permission. Anyone who does so will be removed from the class and receive a grade of F.**

## Schedule (Subject to Change)

**Date # of Pages Assignment**

Jan 14 5 Introduction; Scalia pg 15 - *What Makes an American*

**Ground Rules**

Jan 16 14 Scalia pg 291- *Legal Canards*

Jan 18 13 Scalia pg 376 - *Ruth Bader Ginsburg*; pg ix - *Foreword*;  
pg 243- *Natural Law*

Jan 21 (Holiday)

**Foundations**

Jan 23 37 Dworkin - Chapter 1 - *Jurisprudence*

Jan 25 37 Hart - *Positivism and the Separation of Law and Morals* (PDF)

Jan 28 43 Fuller - *Positivism and Fidelity to Law: A Reply to Prof. Hart* (PDF)

Jan 30 33 Hobbes - Pt 1 Ch 7 - *Of the Ends, or Resolutions of Discourse*  
Pt 1 Ch 14 - *Of the First & Second Natural Lawes & of Contract*  
Pt 1 Ch 15 - *Of Other Lawes of Nature*

Feb 1 35 Hobbes - Pt 2 Ch 18 - *Of the Rights of Sovereigns by Institution*  
Pt 2 Ch 20 - *Of Dominion Paternall, and Despoticall*  
Pt 2 Ch 21 - *Of the Liberty of Subjects*

Feb 4 35 Hobbes - Pt 2 Ch 26 - *Of Civil Lawes*  
Pt 2 Ch 27 - *Of Crimes, Excuses, and Extenuations*  
Pt 2 Ch 28 - *Of Punishments, and Rewards*

Feb 6 19 Locke - Ch II - *Of the State of Nature*  
Ch IV - *Of Slavery*  
Ch V - *Of Property*

Feb 8 23 Locke - Ch X - *Of the Forms of a Common-wealth*  
Ch XI - *Of the Extent of the Legislative Power*  
Ch XII - *Of the Legislative, Executive, and Federative Power*  
Ch XIII - *Of Subordination of the Powers of the Common-wealth*  
Ch XIV - *Of Prerogative*  
Ch XV - *Of Paternal, Political, & Despotical Power*

**The Modern Problem:**

**Does Taking Rights Seriously Result in a Society Run by the Courts**

Feb 11 18 Dworkin - Chapter 2 - *Model of Rules I* 14-31

Feb 13 14 Dworkin - Chapter 2 - *Model of Rules I* 31-45

Feb 15 13 Scalia pg 213 - *The Congressional Power*

Feb 18 22 Breyer - Ch 7 - *The Basic Approach*; Ch 8 - *Congress, Statutes, and Purposes*

Feb 20 10 Scalia pg 234 - *Legislative History*

Feb 22 8 Breyer - Ch 12 - *Past Court Decisions: Stability*

Feb 25	20	Dworkin - Chapter 4 - <i>Hard Cases</i> 81-100
Feb 27	15	Dworkin - Chapter 4 - <i>Hard Cases</i> 101-115
Mar 1	15	Dworkin - Chapter 4 - <i>Hard Cases</i> 115-130
Mar 4	22	Scalia pg 180 - <i>Original Meaning</i> ; pg 188 - <i>Interpreting the Constitution</i>
Mar 6	10	Breyer - Ch 1 - <i>Judicial Review: The Democratic Anomaly</i>
Mar 8	20	Dworkin - Chapter 5 - <i>Constitutional Cases</i>
Mar 11-15		(Spring Break)
Mar 18	35	Dworkin - Chapter 6 - <i>Justice and Rights</i>
Mar 20	26	Scalia pg 157 - <i>The Idea of the Constitution</i> ; pg 201 - <i>The Freedom of Speech</i>
Mar 22		<u>No class - think about/work on your papers</u>
Mar 25	23	Dworkin - Chapter 7 - <i>Taking Rights Seriously</i>
Mar 27	18	Dworkin - Chapter 8 - <i>Civil Disobedience</i>
Mar 29	5	Scalia pg 342 - <i>The Holocaust</i>
Apr 1	46	Breyer - Ch 3 - <i>The Cherokees</i> ; Ch 4 - <i>Dred Scott</i> ; Ch 5 - <i>Little Rock</i>
Apr 3	18	Dworkin - Chapter 9 - <i>Reverse Discrimination</i>
Apr 5	8	Scalia pg 117 - <i>Being Different</i>
Apr 8		<u>No class - think about/work on your papers</u>
Apr 10	23	Breyer - Ch 14 - <i>Accountability: Korematsu</i>
Apr 12	20	Breyer - Ch 15 - <i>Accountability: Guantanamo</i>
Apr 15	20	Dworkin - Chapter 10 - <i>Liberty and Morals</i>
Apr 17	10	Scalia pg 134 - <i>Church and State</i>
Apr 19		<u>No class - work on your papers</u>
<b>Apr 22</b>	14	<b>Papers Due;</b> Breyer - Ch 13 - <i>Ind. Liberty: Permanent Value &amp; Proportionality</i>
Apr 24	8	Dworkin - Chapter 11 - <i>Liberty and Liberalism</i>
Apr 26	17	Scalia pg 148 - <i>Faith and Judging</i> ; pg 333 - <i>Right and Left</i>
Apr 29	12	Dworkin - Chapter 12 - <i>What Rights Do We Have?</i>
May 1	24	Dworkin - Chapter 13 - <i>Can Rights Be Controversial?</i> Scalia pg 223 <i>The Crisis ...</i>
May 3	22	Scalia pg 271 - <i>Dissents</i>
Finals Week		

*Students needing accommodations because of medical diagnosis or major life impairment will need to register with Accessible Campus Community & Equitable Student Support (ACCESS) and complete an intake process before accommodations will be given. The ACCESS office is located in the Student Success Center, Room 1270. You can also reach the office by e-mail at [myaccess@siue.edu](mailto:myaccess@siue.edu) or by calling 618.650.3726. For more information on policies, procedures, or necessary forms, please visit the ACCESS website at [www.siue.edu/access](http://www.siue.edu/access)*

Code of conduct (borrowed from Dr. DeGarmo but with minor edits):

### **Student Conduct in Class:**

Political Science is a field of debate and disagreement - that is what is so exciting about this field. But given that Political Science can be a contentious subject, some simple rules of behavior will be required. First, no behavior that manifests a lack of respect for others or their learning objectives will be tolerated. Should you engage in disrespectful, hostile, racist, demeaning or disruptive behavior, you will be removed from class immediately. It is absolutely crucial that everyone feel comfortable stating and defending his or her own views.

You may use a laptop in class to access PowerPoints, online notes, or to type your own notes. **You may not use your laptop to surf the internet or check your email. You are expected to close your computer when we are involved in class discussion. Additionally, please turn your cell phones off and stow them in a backpack for the duration of the class. If you fail to follow these few simple rules, all student electronic devices will be banned from the classroom and the entire class may be penalized up to one-letter grade in their final course grade.**

### **Academic Honesty and Integrity:**

Academic honesty and integrity are the keystones of education. Genuine learning can only occur in an atmosphere of honesty and integrity. Honesty and integrity also provide the foundation to good citizenship. You should consult the SIUE policy on honesty and integrity before taking this class. In regard to academic dishonesty: No kind or degree of academic dishonesty (i.e. cheating or plagiarism) will be tolerated. Any such behavior on any assignment will result in failing the course and additional measures taken through official channels. There are no exceptions to this rule – you plagiarize and you fail the course. For more information about student ethics and behavior see the paragraph below which is taken from the Undergraduate Catalogue:

"Student Social Conduct, Student Academic Conduct, Student Grievance: Students enrolling in the University assume responsibility for conduct compatible with the learning environment of the University. Students are expected to be familiar with the Student Social Conduct Code, Student Academic Code, and Student Grievance Code. These policies describe the University's expectations for student conduct, sanctions imposed for violations of the standards, and procedures which students

may follow in filing grievances. The University gives high priority to matters of academic ethics and abhors all types of cheating, including plagiarism. Plagiarism is the act of representing the work of another as one's own and may consist of copying or otherwise using written or oral work of another without proper acknowledgment of the source. Instructors may impose sanctions for academic cheating in accordance with the Student Academic Code. Students who wish to understand matters relative to academic ethics and plagiarism should consult their advisers or instructors. Copies of the Codes are available in the Office of the Vice Chancellor for Student Affairs, the Office of the Provost and Vice Chancellor for Academic Affairs, the Graduate School, the Service Center, and in the Office of the Dean, School of Dental Medicine."

Feel free to ask me questions you may have about academic honesty. The core principle behind the student academic code is one in which students represent original work. When you plagiarize or cheat you violate the expectation of honesty and trust between teacher and student and student and student. Students who work hard to complete assignments are being violated by those who take shortcuts to complete the same assignment, not to mention that cheaters and plagiarizers cheat themselves of the opportunity to learn. Therefore, it my expectation that not only will you use appropriate citation, but that the work for the course is your own and it is original.