LAW AND CONTEMPORARY PROBLEMS 940:002 F2018

PUBLIC LAW AND PRIVATE POWER

M 1:10 PM-3:10 PM, 3247 Law

Professor Joel Rogers
7114B Sewell Social Sciences, jerogers@wisc.edu, 608.262.4266
Assistant: Michelle Bright, michelle.bright@wisc.edu, 608.890.2543
Office Hours: M 4-5 PM or by appointment

Course Description

This course is about problems in the design and maintenance of a democratic “affirmative” (aka “welfare” or “opportunity”) state that satisfies popular interest in both efficacy and democratic legitimacy, particularly in the latter’s requirement of demonstrated fidelity to the rule of law. We take the activities of this kind of state, which is characteristic of all modern capitalist democracies, to include not only income maintenance and social insurance programs but any public policies or programs that, in alleged pursuit of improved living standards and egalitarian ends, supplement or replace unregulated markets, procedural rights, and representative democracy — for example, in environmental protection, industrial policy, and the provision of basic public goods in education, security, energy, transportation, and communication. We will examine the modern affirmative state’s origin, evolution, current problems in satisfying expectations of it, and a variety of strategies to address those problems.

Student Learning Outcomes

By the end of this course, students should be able to articulate and defend a view, informed by comparative experience, of the democratic affirmative state’s: (1) origins and politics, (2) challenge to legal order, (3) crisis of operation and legitimacy, and (4) most promising strategies of renewal.

Course Requirements & Grading

Students are expected to attend all class sessions and to complete all assigned readings for each class in advance of its attendance. They are also required to provide in advance of class, and emailed to Michelle Bright (above) no later than 7 AM the day of the class, a single-spaced page or two of questions or comments about anything in those readings they don’t understand, object to, or otherwise would like see more discussion of. I’ll use these short writings to shape my comments in our class discussion, in assigning the class participation part or your grade, and as part of the “formative assessment” of student work now required ABA.

Readings are up at Learn@UW (Canvas). Depending on class discussion, we may reduce or add to readings. Grades will be based on pre- and in-person contribution to class (30 percent) and
performance on a 24-hour, open-book, take-home exam (70 percent). The last will available for pickup during the Law School Final Exam period, which this year runs December 8-21, 2018. A pass/fail option is also available for this course; the deadline for declaring interest in taking it is December 6.

SCHEDULE OF CLASS SESSION TOPICS AND READINGS

1. INTRODUCTION TO CLASS & THE CURRENT MOMENT (SEPTEMBER 10)


2. CAPITAL, LABOR, AND INSTITUTIONALIZED ACCORDS: 1 (SEPTEMBER 17)


3. CAPITAL, LABOR, AND INSTITUTIONALIZED ACCORDS: 2 (SEPTEMBER 24)

14. ADAM PRZEWORSKI & MICHAEL WALLERSTEIN, “Democratic Capitalism at the

4. WELFARE STATE ORIGINS & EVOLUTION IN THE U.S. (OCTOBER 1)


5. HOW THE WELFARE STATE UPSET THE “RULE OF LAW” (OCTOBER 8)


6. HOW CHANGES IN POLITICAL ECONOMY UPSET THE WELFARE STATE … (OCTOBER 15)

32. DANI RODRIK, “The Inescapable Trilemma of the World Economy” (June 22, 2007) & “More on the Political Trilemma of the Global Economy” (March 11, 2016)
33. CHARLES SABEL, “A Real-Time Revolution in Routines,” in C. Heckscher and P. Adler (eds.), The Corporation As a Collaborative Community Organization in the Knowledge-Based Economy
7. **AND GENERATED NEW POSSIBILITIES (OCTOBER 22)**


8. **ALONG WITH LOST ILLUSIONS (OCTOBER 29)**


9. **NEW DEALS 1: EXPANDED RIGHTS & PROGRESSIVE FEDERALISM (NOVEMBER 5)**


10. **NEW DEALS 2: PUBLIC-INTEREST MARKETS, IMPROVED MANAGEMENT, GUIDED DISCRETION, ASSOCIATIVE DEMOCRACY (NOVEMBER 12)**


11. NEW DEALS 3: TRANSPARENCY, NUDGES (NOVEMBER 19)


12. NEW DEALS 4: DEMOCRATIC EXPERIMENTALISM, NEW CONTRACTING (NOVEMBER 26)


13. REVIEW: ALL QUESTIONS, NO WORRIES! (DECEMBER 3)