LAW-LW.10342.001 : THE RULE OF LAW
FIRST ASSIGNMENTS

Spring 2018

Class times: Wednesday 2:10-3:25pm and Friday 12:00-1:15pm, in Vanderbilt Hall Room 204

Teaching: The course will be taught through lecture, rather than Socratic format. I hope the lectures will be interrupted with frequent questions and interventions. You should come to each class with a list of two or three issues from the reading that you want clarified (or that you want to raise in discussion) and I will be happy to address them.

Web-site: The class has a web-site (NYU Classes) on which various readings and additional materials will be posted. You should look at the NYU CLASSES site under MATERIALS for the up-to-date details of what we are doing for each class. Most materials are provided on the NYU CLASSES site. For some, you will have to click on a url provided in the syllabus; for a very few, materials will be photocopied and distributed. Cases you can look up yourselves.

Book purchase: I also recommend purchase of the following books as background reading for the class:

  TOM BINGHAM, THE RULE OF LAW (Allen Lane 2010)

First Classes

(1) INTRODUCTION TO THE RULE OF LAW (Wednesday, January 17)
Required reading:

  • WORLD JUSTICE PROJECT, WJP RULE OF LAW INDEX at http://worldjusticeproject.org/factors
  • Jeremy Waldron, Is the Rule of Law an Essentially Contested Concept? 21 LAW & PHILOS. (2002), 137
(2) PLATO & ARISTOTLE ON RULE BY LAW (Friday, January 19)
Required reading:

- PLATO, THE STATESMAN (360 BCE), extract
- ARISTOTLE, THE POLITICS, NICHOMACHEAN ETHICS and RHETORIC (350 BCE) extracts
- Stephen Burton, Particularism, Discretion and Rule of Law, (reply to Solum), ibid.
- Riggs v. Palmer115 NY 506, 22 NE 188 (1889)

(3) NATURAL LAW THEORIES (Wednesday, January 24)
Required reading:

- MARTIN LUTHER KING, LETTER FROM A BIRMINGHAM JAIL (1963), at https://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html
- THOMAS AQUINAS, SUMMA THEOLOGICA (1274), extract
- JOHN LOCKE, SECOND TREATISE OF GOVERNMENT (1689), extract
- JEREMY BENTHAM, ANARCHICAL FALLACIES & SUPPLY WITHOUT BURTHEN (1793), two extracts

(4) SOVEREIGNTY AND THE SEPARATION OF POWERS (Friday, January 27)
Required reading:

- THOMAS HOBBES, LEVIATHAN (1651), extract
- JOHN AUSTIN, THE PROVINCE OF JURISPRUDENCE DETERMINED (1832), extract
- LOCKE, TWO TREATISES, II, Ch. 7 (§§87-94) & Ch. 12 (§§143-8)