
**SEMINAR IN THE PHILOSOPHY OF LAW:
DEMOCRATIC AUTHORITY
(LAW 7296): SYLLABUS**

[last revised: January 12, 2008]

Prof. Edmundson

Spring 2008

Wednesdays 1:15-2:55 (2-3 credit hours)

Room 406

Discussion list e-mail: law7296wae.200801@gsulaw2.gsu.edu

What's so special about democracy? What reason is there to believe that democratic decision-making can claim an authority and legitimacy that other forms of government cannot? Is there any reason to think that democratic decisions are likelier to be correct (that's not how science proceeds, is it)? If democracy has so much going for it, how can judicial review of popular legislation be justified?

The seminar will pursue these questions in the context of a close reading of David Estlund's brand-new book, *Democratic Authority*. We will track the on-line reading group that will be hosted on the blog, "public reason," which will give us a unique opportunity to learn how legal and political philosophers are receiving Estlund's long-awaited book, which promises to set the terms of discussion for some time to come, in somewhat the way John Rawls's *A Theory of Justice* has set the terms of discussion on the subject of justice.

Open to J.D. and M.A. candidates **only by permission of the instructor**; contact wedmundson@gsu.edu. An undergraduate background in philosophy would be highly advantageous, but there are no prerequisites. E-mail the instructor if you have questions.

Reading:

Estlund, David. 2008. *Democratic Authority: A Philosophical Framework*. Princeton: Princeton University Press

<http://publicreason.net/2007/12/06/reading-group-on-david-estlunds-democratic-authority-a-philosophical-framework/> [—be sure to subscribe to the RSS feed]

The Grading System Explained

There will not be a final examination. Your grade will be based on a final paper of 12-15 (typed, double-spaced) pages. Your class participation will also be a factor. I encourage you to begin thinking right away about your paper topic. A first draft of your paper will be due on or before March 19th; and the final paper will be due by 5pm of the last day of the examination period. *All drafts including the final draft must be in MS Word or WordPerfect format and submitted by e-mail to wedmundson@gsu.edu.* Those wishing to satisfy the upper level writing requirement for the J.D. should read and comply with the *additional* conditions set out in the following section.

Upper Level Writing Requirement

If you want your paper to satisfy the upper level writing requirement for the J.D. degree, you should be aware of this, from the COL website

(http://law.gsu.edu/academics/legal_writing_requirement.php):

“The following guidelines reflect general norms for papers that satisfy the upper level writing requirement....

1. The minimum page length should be 25 pages, double-spaced, excluding footnotes or endnotes. A longer minimum may be required in the discretion of the instructor.
2. At least one draft should be submitted to the instructor prior to the submission of the final paper.
3. An acceptable paper should reflect thorough research of primary and secondary materials. All sources used in writing the paper must be cited appropriately.
4. An acceptable paper should include original analysis by the student.
5. An acceptable paper should be well-organized and written in conformity with accepted rules of grammar, punctuation, and spelling.”

Let me add this: to avoid misunderstanding and possible disappointment, those who wish to satisfy the upper level writing requirement in conjunction with this course *must* declare their intention of doing so on the cover page of their first draft (due no later than March 19th) and turn in a final paper complying with the above guidelines. Those who do not so intend may turn in a final paper of 12-15 pages that emphasizes analysis rather than research, or vice versa. Those who seek to satisfy the upper level writing requirement will be expected to exhibit proficiency in both dimensions—research and analysis. Organization, clarity, and appropriate and consistent citation—it should go without saying—are expected of all papers.

Attendance policy

Roll will be taken at each class meeting. Two or more unexcused absences will be grounds for the assignment of a failing grade. Please also note that class nonparticipation may influence your final grade. Because absences due to illness or conflicting family, legal, military or business duties are routinely excused, *you are encouraged **NOT*** to telephone or e-mail me to ask that such an absence be excused.

Credit hours

You may earn a third credit hour by attending the four Friday class sessions. These sessions are optional for those seeking only two credit hours.

Office hours

Call or e-mail for an appointment, or see me after class. My office is 458 ULB. My office telephone number is 404 413 9167.

Schedule

<u>Date</u>	<u>Topic and reading</u>
1/9	Chapter 1 'Democratic Authority'
1/16	Chapter 2 'Truth and Despotism'
1/18	Friday meeting 1pm-4:10pm*
1/23	Chapter 3 'An Acceptability Requirement'
1/30	Chapter 4 'The Limits of Fair Procedure'
2/1	Friday meeting 1pm-4:10pm*
2/6	Chapter 5 'The Flight from Substance'
2/13	Chapter 6 'Epistemic Proceduralism'
2/15	Friday meeting 1pm-4:10pm*
2/20	Chapter 7 'Authority and Normative Consent'
2/27	Chapter 8 'Original Authority and the Democracy/Jury Analogy'
3/5	<i>Spring break—no class meeting</i>
3/12	Chapter 9 'How Would Democracy Know?', Chapter 10 'The Real Speech Situation'
3/19	Chapter 11 'Why not an Epistocracy of the Educated?' <i>First drafts due</i>
3/26	Chapter 12 'The Irrelevance of the Jury Theorem'
3/28	Friday meeting 1pm-4:10pm*
4/2	Chapter 13 'Rejecting the Democracy/Contractualism Analogy'
4/9	Chapter 14 'Utopophobia: Concession and Aspiration in Democratic Theory'
4/16	Author's Comments

*required for third credit hour; optional for two