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Reflections on Teaching the Rule of Law: An Essay

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This essay describes and reflects on a rule of law course that I have taught at the University of Arkansas School of Law for fifteen years. A rule of law course can offer more to its students than an excursion through the rule of law's long history and almost equally long contest over that phrase's meaning. My course, for instance, draws on history, current affairs, psychology, economics, and more to teach professionalism from a rule of law perspective. In large part, it does this by extensively considering corruption and its causes, consequences, and cures. Professionalism is one of those cures. After all, "professionalism prohibits corrupt action."[2] And no one should doubt that "lawyer honesty, integrity, and independence are integral to the rule of law."[3]

Because lawyer honesty, integrity, and independence are integral to the rule of law, teaching the rule of law is necessarily about teaching lawyer professionalism. The rule of law and lawyer professionalism are inextricably bound together. Lawyers have a direct stake in the rule of law because their work depends on it. Absent the rule of law, lawyers are superfluous, except perhaps as conveyors of bribes or other favors. Worse, where the rule *by* law instead of the rule *of* law prevails, lawyers are often mere agents of their government's repression.[4] Neither bribery nor repression are within the realm of professionalism, as professionalism is commonly understood.

Most of my students, the majority of whom are third-year students, come to my course knowing little or nothing about what the rule of law is. And even fewer have thought about what the rule of law means to them and why. This statement should not be understood as denigrating my students. I, too, would have struggled to answer these questions before I began teaching my rule of law course.

Defining the rule of law and its functions and benefits are not easy tasks. The rule of law has many contested meanings. Each is the product of considerable intellectual energy. And advocates of one meaning are reluctant to give ground to advocates of another meaning. Also

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[2] Robert E. Lutz, The Globalization of Professionalism in Essential Qualities of the Professional Lawyer 246, 252 (Paul A. Haskins, ed. 2023).

[3] Richard Moorhead, et al., What Does It Mean for Lawyers to Uphold the Rule of Law: A Report for the Legal Services Board, Univ. of Exeter, Oct. 2023, at 6, https.//ssrn.com/abstract=4660750.

[4] In rule by law systems, unlike rule of law systems, governments can change laws at their whim. See Mark Tushnet, Rule by Law or Rule of Law?, 22 Asia Pacific L. Rev. 79, 80 (2014).

debated is why the rule of law matters. Much is claimed for the rule of law's benefits. And like the rule of law's meaning, many of these claims are also contested.

Most fundamentally, my course asks the students to decide what the rule of law means to them and why. Answering these questions helps them to recognize the rule of law's benefits, as expansive or limited as they may be, depending on who is tallying them. As students recognize these benefits, they begin to internalize the need to at least preserve, if not advance, the rule of law. Internalizing this need provides a foundation and a framework for understanding lawyer professionalism. Upholding and advancing the rule of law is at the core of lawyers' professionalism, just as the rule of law, at its core, depends on lawyers' professionalism.

The ideal lawyer, the lawyer we strive to be, views upholding and promoting the rule of law as what lawyers do professionally, day to day, every day. The first step toward that ideal is understanding what the rule of law is and why it matters. This is why I chose to teach the rule of law at the University of Arkansas School of Law. And this is why every law school should offer a rule of law course.

This essay, therefore, offers more than my reflections on teaching my rule of law course. To encourage others to teach the rule of law, this essay offers ideas for creating and teaching a rule of law course without attempting to be a roadmap. In choosing not to be a roadmap, this essay presumes that others' creativity will be a better guide than any roadmap that I can offer.

Moreover, as my course has evolved, it has become a course that blends teaching the rule of law with teaching the rule of law's "flipside": corruption. Because this blending of the rule of law and corruption was not inevitable, this essay will explain how and why it evolved over fifteen years into the course that I now teach. Because I first taught my rule of law course in 2009, this essay begins with perspectives on the rule of law and a look at the extant U.S. rule of law courses in 2009.

I. The Beginning and Evolution of My Rule of Law Course

In 2009, four Hague Journal on the Rule of Law editors introduced their readers to the Journal's first issue by saying this about the rule of law:

> The rule of law has become a global ideal. It is supported by people, governments and organizations around the world. It is widely believed to be the cornerstone of national political and legal systems . . . . Few, if any, ideals have achieved such widespread acceptance and broad application.[5]

These editors attributed the rule of law's then-recent growth to work begun in the late 1980s by governments, nongovernmental organizations, businesses, law firms, and individuals. This "rule

[5] Julio Faundez, et al., Editorial: Introduction – A New Journal!, 1 Hague J. on the Rule of Law 1 (2009).

of law industry," as they characterized it, focused on law and legal institution reform initiatives whose costs had, by 2009, exceeded one billion U.S. dollars annually.[6]

Yet, despite these achievements, not all was well in 2009. Missing, according to these editors, was adequate knowledge and understanding about the rule of law's meaning. Also inadequately known and understood was the rule of law's contributions to the outcomes for which the rule of law is often at least partially credited, such as economic development and the advancement of human rights.[7]

One of these editors, Professor Randy Peerenboom, writing separately in the same inaugural Journal issue, even questioned the existence of a "rule of law field." After acknowledging that the "rule of law field has come a long way in the last several decades," Professor Peerenboom added that, "given the diversity of competing definitions and conceptions of the rule of law, there remain serious doubts about whether there is such a thing as 'a rule of law field.'"[8]

Professor Peerenboom is right about the rule of law's meaning: a consensus definition does not exist. Instead, the rule of law means different things to different individuals and institutions. Even efforts to group the various definitions according to widely accepted standards have faltered. Because some definitions require more than others, they are often distinguished by whether they are "thin" or "thick."[9] Other rule of law scholars, however, prefer to categorize rule of law definitions as either "formal" or "substantive."[10] And yet others use both categories and thus recognize that, for example, one "formal" definition can be "thicker" or "thinner" than others.[11]

And, as Professor Peerenboom also observed, the definitions compete. Indeed, according to another scholar, the labels "thin" and "thick" and "formal" and "substantive" "seem designed to subtly disparage the first version at the expense of the second."[12]

But do these varying and competing definitions preclude the existence of a "rule of law field"? Maybe. As Professor Robert Stein has noted, "Without a clear definition, the rule of law is in danger of coming to mean virtually everything, so that in fact may come to mean nothing at

[6] Id.
[7] Id. at 2.
[8] Randy Peerenboom The Future of the Rule of Law: Challenges and Prospects for the Field, 1 Hague J. on the Rule of Law 5 (2009)
[9] For an attempt to make sense of this dichotomy, see Jøgan Møller & Svend-Erik Skaaning, 13 Just. Sys. J. 136 (2012),
[10] For a challenge to this dichotomy, see Michael P. Foran, The Rule of Good Law: Form, Substance, and Fundamental Rights, 78 Cambridge L.J. 570 (2019).
[11] See Brian Z. Tamanaha, On the Rule of Law: History, Politics, Theory 91-92 (2004),
[12] Thomas W. Merrill, The Essential Meaning of the Rule of Law, 17 J. L. Econ & Pol'y 673, 676 (2022) (footnote omitted).

all."[13] More likely, given that the rule of law surely means something short of virtually everything, a rule of law field exists, even if it coexists with quarrels over its boundaries.

There we were in 2009, quarreling over the rule of law's meaning. The Hague Journal on the Rule of Law's first issue had hailed the rule of law as a "global ideal," adding that "[f]ew, if any, ideals have achieved such widespread acceptance and broad application." Yet the Journal also told us that the rule of law's meaning was unsettled and contested, leaving doubt about even the existence of a "rule of law field." Also unsettled and therefore contestable was the relationship between the rule of law and all the beneficial outcomes claimed for it. Given this, one could fairly ask why a diversely defined, possibly overly touted concept—the "rule of law"—achieved the status of a "global ideal"?

I started teaching a rule of law course in 2009 insufficiently informed to know what I was wading into. If I had a sense that the rule of law had achieved the status of a global ideal, I did not know why. Nor did I know enough about the rule of law to know if it deserved this status.

I did not, therefore, start teaching a rule of law course because I was overflowing with knowledge about its subject. Instead, I decided to teach a rule of law course in 2009 because William H. Neukom, then the American Bar Association's President, told an ABA conference audience, including me, two years earlier that every law school should teach a rule of law course. Mr. Neukom was then co-founding the World Justice Project and would become its chief executive. In 2009, the World Justice Program became a nonprofit organization devoted to promoting the rule of law worldwide.[14]

Also in 2009, but before I started teaching my course, Professor Robert Stein of the University of Minnesota Law School published an article about his rule of law course.[15] Professor Stein's article instructed me then, and I continue to consult it. Indeed, anyone considering creating a rule of law course should consider it a worthy guide to the reasons for teaching the rule of law and for a working outline for a rule of law course's potential structure and coverage.

Professor Stein's course was a two-credit seminar that met weekly for thirteen weeks. Appropriately, its coverage began with meaning of the rule of law. From there it moved to judicial independence, an independent legal profession, critiques of governmental and nongovernmental rule of law programs, corruption, human rights, the rule of law and economic development, war crimes and genocide, and religion and the rule of law.[16]

When Professor Stein surveyed U.S. law schools in preparing his article and perhaps his course, he identified approximately seventeen law schools that were then teaching rule of law courses like his. He observed:

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[13] Robert A. Stein, What Exactly Is the Rule of Law, 57 Hous. L. Rev. 185, 185 (2019).
[14] The World Justice Program's website is located at https://worldjusticeproject.org/.
[15] Robert A. Stein, Teaching the Rule of Law, 18 Minn. J. Int'l L. 403 (2009).
[16] Id. at 406-11.

> Perhaps due to the breadth of the subject itself, these courses cover a variety of concepts across diverse topics in which the rule of law plays a part. There is no standard syllabus for these rule of law courses, and each course is somewhat unique.[17]

He also observed that "a disproportionately large number of these courses are taught in some of the nation's most respected legal institutions, such as Yale, Stanford, and New York University Law Schools."[18] This, he implied, offset the relatively small percentage—eight percent—of schools teaching rule of law courses. Thus, the rule of law course landscape that existed in 2009 featured courses at only a few, mostly well known, U.S. law schools. And they were teaching the subject in various ways.[19]

My course was not included in Professor Stein's survey because it did not yet exist. Had it been included it might have been the most primitive rule of law course among the courses surveyed. When I started teaching my course in 2009,[20] I began the course by covering the rule of law's meaning. But I did not cover it thoroughly. To the contrary, given my unfamiliarity with the vast body of writings on the subject, my coverage was a notch above bare-bone coverage.

Following its introduction to various definitions of the rule of law, my course wandered. Literally. During the course's first few years, I relied on guest speakers from around the world for much of the course's content. These speakers joined the class by Skype and included resident legal advisors at the U. S. embassies in Moscow and Kyiv; attorneys at nongovernmental organizations, including the Ford Foundation in China; attorneys in private practice; and others, including ABA Rule of Law Initiative volunteers and law-trained Fulbright Scholars who were working on rule of law projects in places such as Tajikistan and Nigeria.

I asked these guests to tell my students about the rule of law in the country where they worked and to discuss a topic related to the rule of law that interested them. This resulted in a course that covered an eclectic, geographically diverse range of topics tied in varying degrees of closeness to the course's rule of law theme.

This variety, however, was more positive than negative. It revealed to the students the array of activities that rule of law "practitioners" were doing, albeit without delving into how well their activities were hewing to any specific rule of law definition or how efficaciously their work advanced what the rule of law can advance. In hindsight, the students and I could have discussed these practitioners' work more critically. But that might have come at the expense of distracting or disengaging the students from what the guest speakers were doing: informing the

[17] Id. at 413.
[18] Id.
[19] For a discussion of why U.S. legal education should include more instruction about the rule of law, see James Huffman, Legal Education and the Rule of Law, 60 Cal. West. L. Rev. 571, 606 (2024) (claiming "that there has developed an activist culture among American lawyers reflecting a diminished appreciation for the rule of law").
[20] My course began and remained a two-credit, discussion-based course with once-weekly class sessions.

students about nontraditional ways to practice law and inspiring them to consider, even briefly, the possibility of following the guest speakers' paths.[21]

After a few years, I relied less on guest speakers and more on readings that I had assembled. But the course's coverage remained eclectic, with the topics varying from year to year as I experimented or responded to students' requests. For example, student requests to consider political campaign financing led to the course covering "institutional corruption" and "dependence corruption" for several years.[22]

But the course fundamentally changed in 2015. That year, I converted the course to a transnational course. At the time, I was teaching in Ukraine independently of my full-time University of Arkansas School of Law teaching. I had been a Fulbright Scholar in Kharkiv, Ukraine, in 2005, and in Chisinau, Republic of Moldova, in 2011. I started teaching independently; that is, self-funded, in Ukraine in 2006 and later extended that teaching to the Republic of Moldova, the Republic of Georgia, Lithuania, Belarus, Russia, Kazakhstan, Poland, Uzbekistan, and Cyprus.[23]

In 2015, with the help of a Ukrainian law professor, we arranged for students at the Taras Shevchenko National University of Kyiv Law Faculty (now Law Institute) in Kyiv, Ukraine, to remotely join my rule of law course. Since then, Moldovan and Uzbek law students have remotely participated in the course, along with Ukrainian law students at Shevchenko and other Ukrainian law schools. Mostly, however, the remote participants have been Ukrainian students, lawyers, and professors affiliated with various Ukrainian law schools.[24]

Because Ukrainians were in the course, I added units on the rule of law in the former Soviet republics, focusing on Russia and Ukraine. Ukraine had recently experienced its Revolution of Dignity,[25] and Russia had illegally occupied Crimea and fomented a war in Ukraine's Donbas

[21] I asked every guest speaker to explain how to the students they got the job they were doing. Somewhere in their respective responses, most said the job that the currently had did not exist when they were in law school. Simply hearing this was a gain for the students' experiences in the course.

[22] See generally, Lawrence Lessig, Institutional Corruptions, Harv Univ. Edmund J. Safra Working Papers No 1, Mar. 15, 2013, http://ssrn.com/abstract=2233582 (discussing institutional corruption and dependence corruption).

[23] I describe how I developed my "freelance" or independent international teaching and offer tips for others who wish to teach internationally in Christopher R. Kelley, Teaching Abroad Independently: An Essay, 46 S. Ill. U. L.J. 105 (2022).

[24] I have previously written about the course's transnational elements in Internationalizing the U.S. Law School Classroom: Lessons Learned from Teaching Transnationally, Christopher R. Kelley & Nataliia Borozdina, Internationalizing the U.S. Law School Classroom: Lessons Learned from Teaching Transnationally, 52 Int'l L. 131 (2019). As that article's title suggests, the article focuses on the lessons I learned from teaching the rule of law course and another course, international commercial arbitration, transnationally. These lessons mostly concerned the practical aspects of teaching transnationally rather than the substance of either the rule of law or the international commercial arbitration course. Therefore, I will not discuss the practical aspects of teaching transnationally here.

[25] For an informative article on Ukraine's Revolution of Dignity, also known as the Euromaidan, see Serhiy Kvit, The Ideology of the Euromaidan, 1 Soc., Health & Comm. Stud. J. 27 (2014).

region.[26] Corruption in Ukraine and in other former Soviet Republics, especially Russia, had been and remains an obstacle to achieving the rule of law. Therefore, I began to emphasize corruption more than I had previously.

Contemporary writings on corruption and the rule of law in Russia and Ukraine were plentiful in 2015 and remain so. The mixture of Ukraine's Revolution of Dignity, coupled with growing western interest in Russia's war against Ukraine, provided the opportunity to contrast Ukraine's struggle with corruption with Russia's deeply entrenched kleptocracy. As the rule of law grew in Ukraine following the Revolution of Dignity, it was fading in Russia as the Kremlin increasingly repressed dissent domestically and murdered and displaced Ukrainian citizens in Ukraine's Donbas. And following Russia's illegal, full-scale invasion of Ukraine on February 24, 2022,[27] the rule of law has all but disappeared in Russia.[28] Thus, Russia's corruption and disregard of the rule of law then stood and still stands in stark contrast with Ukraine's advance toward the rule of law.

When I taught my Rule of Law course during the Spring 2022 semester, I stopped covering what I usually cover after February 24, the day on which Russia launched its full-scale war against Ukraine. For the rest of the semester, the course covered the war.

During each class, Ukrainians would update the Arkansas students on developments in Ukraine and lead the class in a discussion. I distributed my normal reading assignments but never attempted to redirect the students' attention to them. I only distributed them to fall back on in case Ukrainians were not in class. Fortunately, the Ukrainians who could participate continued to do so. Accordingly, my Spring 2022 rule of law course was unlike any course I have taught in more than twenty-five years of law school teaching. If a U.S law school course ever covered a major European war in real time, that class was held during the Second World War.

My course still covers Russia's war against Ukraine. And I have added a unit on war and humanitarian law. That unit partially focuses on the life, lectures, and writings of Benjamin Ferencz, the last surviving Nuremburg Tribunal prosecutor who died during my spring 2023 course.[29]

This unit has been one of the course's most successful. Benjamin Ferencz sought to substitute law for war. Yet, humanitarian law's ostensible limit on Russia's barbarism, brutality, murder,

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[26] See, e.g., Anna Arutunyan, Hybrid Warriors: Proxies, Freelancers and Moscow's Struggle for Ukraine (2022) (discussing Russia's illegal occupation of Crimea and its invasion of Ukraine's Donbas region).

[27] See, e.g., Luke Harding, Invasion: The Inside Story of Russia's War and Ukraine's Fight for Survival (Vintage Books 2022) (examining Russia's full-scale invasion of Ukraine in during early months of the war in 2022).

[28] Even before Russia's full-scale invasion of Ukraine and the subsequent widespread and extensive growth in Russia's repression of its citizens and others, Russia had a "dualistic" system. In this system, ordinary, nonpolitical disputes were resolved by the written law. But in cases that "touch on politically sensitive issues or involve economically powerful actors . . . the outcome is preordained and written law is largely irrelevant." Kathryn Hendley, Everyday Law in Russia 235 (Cornell University Press 2017).

[29] Benjamin Ferencz was the last living Nuremburg Tribunal prosecutor until his death at age 103 in April 2023. His books, articles, and lectures are collected on his website: https://benferencz.org/.

and destruction has failed utterly. The law has done nothing to prevent Russia's daily war crimes and crimes against humanity. The lessons to be drawn from this include a tragic one: the rule of law has limits and probably will never be fully realized. For conscientious law students seeking to add meaning to their lives by practicing law, this is sobering.

Nevertheless, most of my students have responded positively to Benjamin Ferencz's life, lectures, and writings. Substituting war with the rule of law was Benjamin Ferencz's life mission. And he never wavered from this mission until he died. This, too, is sobering. But it is also inspiring. Benjamin Ferencz's exemplary life was devoted to advancing the rule of law.

If nothing else, including war and its consequences in a rule of law course illustrates what Professor Stein discovered when he surveyed the then-extant U.S. rule of law courses before writing his 2009 article about his course. Teaching the rule of law can take many paths and move in many directions. His course, too, covered the law of war. Sadly, as Russia's war against Ukraine has taught us that the law of war might never lose its relevancy. Given aggressors like Russia's Vladimir Putin and his "murderous imperial war in Ukraine,"[30] the law of war will probably remain a core area of inquiry in rule of law courses.

Although my rule of law course has moved in many directions, since 2015 it has consistently blended, albeit in varying amounts, the rule of law and corruption. The two subjects are related, if not interconnected. Corruption can be viewed as the "flipside" of the rule of law. And corruption often prevents pervasively corrupt societies from realizing the rule of law.

Moreover, the rule of law and corruption can profitably be studied together. Studying the rule of law is worthwhile because lawyers depend on it, as do well-functioning societies. But it can be dry to study. Some scholarly rule of law writings are unsuitable for course readings because of their length and reader-unfriendly writing style.

On the other hand, students usually have an emotional reaction to corruption. Corruption is unfair. It enriches and empowers those who violate the rules by "grabbing" at the expense of those who abide by the rules. The rule of law, in contrast, even when viewed as an instrument of economic and social wellbeing, typically does not engender the emotional reactions that corruption does.

Thus, when students contrast the rule of law with corruption, their emotional aversion to corruption becomes part of the context in which they think about the rule of law and what it means to them. The result, or at least a potential result, is that the interplay between their emotional reaction to corruption and their intellectual engagement with the rule of law will help them internalize some of the rule of law's values. One of those values, of course, is to reject corruption and fight against it.

[30] Mark Galleotti, Forged in War: A Military History of Russia from Its Beginnings To Today 18 (2024).

In contrasting corruption and the rule of law based on their power to stir our emotions, I intend to speak only generally. In a course in which some of the students are Ukrainian, the studying the rule of law is fraught with emotion. Russia's war against Ukraine has been punctuated daily with Russian war crimes and crimes against humanity. These crimes are flagrant rule of law violations. No decent person could react to these crimes unemotionally.

Transnational rule of law courses that include war victims, as all Ukrainians are, are uncommon. Yet teaching any rule of law course transnationally has two advantages. First, a transnational rule of law course implicitly underscores the rule of law's evolution over many centuries and across many nations. This evolution is ongoing. And, as previously noted, it has left the rule of law broadly divided into "thin" and "thick" definitions. Moreover, adherence to the rule of law is incomplete. Some nations have fallen short of meeting even the thinnest rule of law definition. Students in a transnational rule of law course might recognize this more readily than students in a domestic course in a country where the rule of law is taken for granted, as it is in the United States.[31]

The greater gain offered by a transnational course, however, might be the students' recognition that the rule of law is generally perceived as a universal good. The late Lord Tom Bingham, a leading rule of law scholar, characterized the rule of law as "the nearest we are likely to approach to a universal secular religion."[32] If Lord Bingham's characterization of the rule of law as "the nearest we are likely to approach a universal secular religion" is correct, a transnational rule of law course offers an uncommon opportunity for students to consider why the rule of law is approaching a "universal secular religion." In a transnational course, the students can individually and collectively draw on their daily experiences to compare the rule of law's meaning and significance in one nation with those in another.

Not every rule of law course can be taught transnationally, of course. Nor is teaching the course transnationally necessary to help students internalize what the rule of law means to them. Any rule of law course can be designed and taught to help students connect with the rule of law in a personal way.

In my course, students have always been permitted to write an essay on what the rule of law means to them as a partial basis for their course grade. And, after teaching my rule of law course for fifteen years, I believe this question is central to what the students gain from the course.

Because the rule of law's meaning is unsettled and contested, an appropriate place to start a rule of law course is with the rule of law's many contested definitions. But the commentary on

[31] For proposition that some lawyers in the United States take the rule of law for granted and why this must change, I recommend this remarkable article: Eli Wald, The Role of Lawyers in Mature Democracies When the Rule of Law Is Under Attack, Univ. of Denver Sturm College of Law, Legal Res. Paper No. 24-12, available at https://ssrn.com/abstract-4947719 (draft cited with the author's permission).

[32] Tom Bingham, The Rule of Law 174 (2010).

the rule of law's meaning is voluminous. This, in turn, poses the question for the course's instructor of how much attention to be devoted to defining the rule of law.

There is no invariably correct answer to this question. A rule of law course could be devoted entirely to the rule of law's many contested meanings. But devoting a rule of law course entirely to the rule of law's many meanings risks missing a significant opportunity. This opportunity involves encouraging students to decide what they think the rule of law means so that they can see themselves in the context of that meaning. That meaning might be contested, but so are all the other meanings of the rule of law.

Moreover, sustaining a course built solely on what the rule of law means would require a remarkably gifted teacher and extraordinarily motivated (or tolerant) students. The literature on the rule of law can be dense and occasionally impenetrable. And this can be unsatisfying. For those who believe, as I do, that the law should be sufficiently accessible to be understood by everyone who is subject to it, murky scholarly literature about the rule of law does little to bring the rule of law's meaning and significance into the mainstream of public discourse.

Furthermore, turning from the rule of law's meaning to its "flipside"—corruption—can offer lessons on what the rule of law is not, particularly when the flipside involves systemic corruption. Systemically corrupt societies are highly unlikely to abide by any definition of the rule of law. Most violate even the rule of law's thinnest definition. A rule of law course that includes an inquiry into corruption's causes and consequences, therefore, can offer insights into what the rule of law is and is not.

Combining the study of the rule of law with studying corruption thus helps the students understand both the rule of law and corruption. The remainder of this essay is therefore devoted to how a rule of law course that blends the rule of law with corruption might be structured.

II. How a Rule of Law Course Might Be Structured

A. The Rule of Law's History and Meaning

A logical place to begin a rule of law course is with the rule of law's history and meaning. Professor Brian Z. Tamanaha offers a brief examination of both in his monograph, *The History and Elements of the Rule of Law*.[33] Although this monograph alone can suffice for presenting Professor Tamanaha's central perspectives on the rule of law, it can be productively

[33] Brian Z. Tamanaha, The History and Elements of the Rule of Law, Washington Univ. in St. Louis School of Law Legal Studies Research Paper Series, Paper No. 12-02-07 (Feb. 2012) [hereinafter *History and Elements of the Rule of Law*] This monograph's text also appears in the Singapore Journal of Legal Studies 232 (2012). Professor Tamanaha elaborates on his perspectives on the rule of law's history and meanings in his book, On the Rule of Law: History, Politics, Theory (2004).

supplemented with two more of his monographs: *Functions of the Rule of Law*[34] and *A Concise Guide to the Rule of Law*.[35]

I begin with Tamanaha's *History and Elements of the Rule of Law* because it explains why Professor Tamanaha favors a "thin" definition of the rule of law. Starting with the thin definition sets the baseline for introducing the thicker definition that the late Lord Tom Bingham offered.

Professor Tamanaha's definition can be stated in a single sentence: "The rule of law means that governments and citizens are bound by and abide by the law." He adds, however, that this definition requires that "there must be a system of laws—and law by its nature involves rules *set forth in advance* that are *stated in general terms*."[36] Moreover, "the law must be *generally known and understood*."[37] And "[t]he requirements imposed by the law *cannot be impossible* for people to meet."[38] Finally, the laws be *applied equally to everyone according to its terms*,"[39] and "there must be *mechanisms or institutions* that *enforce the legal rules* when they are breached."[40]

Within this definition, Tamanaha argues, are three themes: (1) "the notion that government is limited by law;" (2) "the notion of formal legality;" and (3) "the classic expression; 'The rule of law, not man.'"[41] Tamanaha draws on the rule of law's historical development to explain the first theme: that government is limited by law. Whether *The History and Elements of the Rule of Law* sufficiently explores the rule of law's history to support that theme is debatable. Yet most rule of law scholars agree that governments should be limited by law.

The second theme, "formal legality" includes prospectivity, generality, transparency, equality in application, and the like. Professor Tamanaha also discusses law's often unavoidable shortcomings, such as how laws can be simultaneously under- and over-inclusive. As with its history of the rule of law, *The History and Elements of the Rule of Law* considers formal legality only briefly. But it introduces that concept well, certainly well enough for a course's first reading.

As for the third theme, that the classic expression of the rule of law means that the law prevails over a ruler's whims and shifting moods, Tamanaha stresses the importance of judicial institutions and the character and actions of judges within those institutions in ensuring fealty

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[34] Brian Z. Tamanaha, Functions of the Rule of Law, Washington Univ. in St. Louis School of Law Legal Studies Research Paper Series, Paper No. 18-01-01 (Jan. 2018). This article's text can also be found in Brian Z. Tamanaha, Functions of the Rule of Law in The Cambridge Companion to the Rule of Law ch. 12 (Jens Meierhenich & Martin Loughlin eds. 2021).

[35] Brian Z. Tamanaha, A Concise Guide to the Rule of Law, Washington Univ. in St. Louis School of Law Legal Studies Research Paper Series, Paper #07-0082 (Sept. 2007).

[36] *History and Elements of the Rule of Law*, supra note ____, at 2 (emphasis in the original).

[37] Id.

[38] Id.

[39] Id. at 2-3

[40] Id. at 3.

[41] Id. at 8.

to the law. As he puts it, "Law cannot but speak through people. Judges must be individuals who possess judgment, wisdom and character, or the law will be dull-minded, vicious, and oblivious to its consequences."[42]

Professor Tamanaha concludes *The History and Elements of the Rule of Law* with what could be the theme of a rule of law course. Specifically, he states and discusses this proposition: "For the rule of law to exist, people must believe in and be committed to the rule of law."[43] Indeed, this proposition underlies the core question of my rule of law course: What does the rule of law mean to you? The "you" in this question is each student in the course.

To believe in and be committed to the rule of law, law students must know what the rule of law is. Despite its many contested definitions, even the "thin" definition espoused by Professor Tamanaha offers much to believe in and to be committed to upholding. And even if someone chooses to accept and be committed to upholding a "thicker" definition, Professor Tamanaha is correct in saying, "For the rule of law to exist, people must believe in and be committed to the rule of law."

As an optional reading, I assign another, yet similar, article by Professor Tamanaha: *A Concise Guide to the Rule of Law*.[44] This article also works well as a required reading. But the overlap between it and *The History and Elements of the Rule of Law* is such that its points can be introduced during a discussion Professor Tamanaha's *A Concise Guide to the Rule of Law*.

If one wants to introduce the concept of the rule of law more extensively than either of Professor Tamanaha's writings that I have mentioned here, assigning A. W. Bender's, *An Elementary Approach to the Rule of Law*[45] is a good choice. This article's length—26 pages—might be more than one might want to devote to introducing the rule of law. After all, most scholarly writings about the rule of law discuss at least some of the rule of law's many contested meanings, as does Professor Bender's.

To bring the rule of law's many contested meanings to the forefront, Jeremy Waldron's, *The Rule of Law as an Essentially Contested Concept*[46] is a better choice than Professor Bender's article. Professor Waldron's article highlights the extent of the reach of the rule of law's many contested meanings. Moreover, instead of viewing the rule of law's multiplicity of disputable meanings as wholly negative, Professor Waldron welcomes the understanding the rule of law as an "essentially contested concept" because this "draws attention to the way in which arguments

[42] Id. at 25.
[43] Id. at 26.
[44] Brian Tamanaha, A Concise Guide to the Rule of Law, St. John's University School of Law, Legal Studies Research Paper Series Paper #807-0082, Sept. 2007.
[45] A. W. Bedner, An Elementary Approach to the Rule of Law, 2 Hague J. on the Rule of Law 48 (2010).
[46] Jeremy Waldron, The Rule of Law as an Essentially Contested Concept in The Cambridge Companion to the Rule of Law ch. 6 (Jens Meierhenich & Martin Loughlin eds. 2021) [hereinafter *Essentially Contested Concept*].

about the meaning of a given concept contribute to our understanding and evaluation of the systems, practices, and actions to which the concept is applied."[47]

Discussions about the rule of law's meaning should, at some point, be blended with or give way to discussions about the rule of law's functions. When I make this transition, I again turn to Professor Tamanaha, specifically to his article, *Functions of the Rule of Law*.[48]

Professor Tamanaha's *Functions of the Rule of Law* succinctly summarizes some of the rule of law's major functions. He divides these functions into two kinds: "manifest" and "latent." The manifest functions include promoting personal and collective security and trust, imposing legal restrictions on officials, preserving liberty, and promoting economic development.[49]

The latent functions are limited to two. The first, stated provocatively, "is to secure a pivotal place for legal professionals, who exercise a stranglehold on specialized legal knowledge, practices, and institutions utilized in the operation of the state legal system."[50] The second "is to constitute, entrench, and maintain power structures in society through a coercive system of law backed by force."[51]

By assigning Professor Tamanaha's *Functions of the Rule of Law* in tandem with Professor Waldron's *The Rule of Law as an Essentially Contested Concept*, the students have a context within which to test Professor Waldron's article's thesis. That thesis is "that drawing attention to the 'essential contestedness' of the *rule of law* is not a reason for condemning the concept, but a way of showing how the heritage of disputation associated with it enriches and promotes some or all of the purposes of for which *the rule of law* is cited in legal and political argument."[52] Although these "purposes" might not be fully synonymous with the rule of law's "functions" as described by Professor Tamanaha in the *Functions of the Rule of Law*, their respective meanings are close enough to inform a discussion.

If my course devoted more attention to the rule of law's many contested meanings, at this point I would assign Timothy A. O. Endicott's *The Impossibility of the Rule of Law*[53] and Martin Krygier's *What's the Point of the Rule of Law?*[54] Both have considerable merit for inclusion in a rule of law course.

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[47] Id. at 121.
[48] Brian Z. Tamanaha, Functions of the Rule of Law, Washington University in St. Louis School of Law Legal Studies Research Paper Series, Paper No. 18-01-01 (Jan. 2018) [hereinafter *Functions of the Rule of Law*]. This article also appears in Chapter 12 of The Cambridge Companion to the Rule of Law (Jens Meierhenich & Martin Loughlin eds. 2021).
[49] Functions of the Rule of Law, supra note ___ at 2-14.
[50] Id. at 14.
[51] Id. at 15.
[52] *Essentially Contested Concept*, supra note ___ at 122 (emphasis in original).
[53] Timothy A. O. Endicott, The Impossibility of the Rule of Law, 19 Oxford J. Legal Studies 1 (1999).
[54] Martin Krygier, What's the Point of the Rule of Law", 67 Buff. L. Rev. 743 (2019).

But I conclude my course's introduction of the rule of law's meanings with Lord Tom Bingham's article, *The Rule of Law*.[55] His view of what the rule of law should mean has consistently been the most popular among my students. I, too, favor it. And I use it as my working definition of the rule of law.

For Lord Bingham, at the rule of law's core is the proposition "that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts."[56] From there, he offers eight "sub-rules":

> "First, the law must be accessible and so far as possible intelligible, clear and predictable";[57]
>
> Second, "questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion";[58]
>
> Third, "the laws of the land should apply equally to all, save to the extent that objective differences justify differentiation";[59]
>
> Fourth, "the law must afford adequate protection to fundamental human rights";[60]
>
> Fifth, "means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve";[61]
>
> Sixth, "ministers and public officers at all levels must exercise the powers on them reasonably and in good faith";[62]
>
> Seventh, "adjudicative procedures provided by the state should be fair";[63] and
>
> Eighth, "the rule of law requires compliance by the state with its obligations in international law, the law which whether deriving from treaty or international custom and practice governs the conduct of nations."[64]

Lord Bingham's article explains the reasons for his rule of law's core rule and rule's sub-rules. When viewed together, this core rule and these sub-rules can set the stage for a summative

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[55] Lord Tom Bingham, 66 Cambridge L.J. 67 (2007) [hereinafter *Lord Bingham*].
[56] Id. at 69.
[57] Id.
[58] Id. at 70.
[59] Id. at 73.
[60] Id. at 75.
[61] Id. at 77.
[62] Id. at 78.
[63] Id. at 80.
[64] Id. at 82. For a discussion of the possibility of identifying the core rule of law requirements under international law, see Noora Arajärvi, The Core Requirements of the International Rule of Law in the Practice of States, 13 Hague J. on the Rule of Law 173 (2021).

discussion of the rule of law's meanings. Relatively easy to compare are the differing views of Lord Bingham and Professor Tamanaha on whether human rights should be included in the rule of law's definition. Most of my students have adopted Lord Bingham's inclusion of some human rights.

In *The History and Elements of the Rule of Law*, Professor Tamanaha contends that human rights should be excluded from the rule of law's definition because his definition "says nothing about standards that the laws must satisfy—whether human rights standards or any other."[65] Recall that Professor Tamanaha's definition of the rule of law is "thin": his definition requires "only that that "government officials and citizens be bound by and abide by the law."[66]

On the other hand, Lord Bingham recognizes that other rule of law definitions do not provide for the protection of fundamental human rights. He notes, however that "[t]he Preamble to the Universal Declaration of Human Rights of 1948 recites that 'it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.'"[67] On this and other bases, he contends that "[a] state which savagely repressed or persecutes sections of its people could not in my view be regarded as observing the rule of law . . . ."[68] He concedes, however, that he would not incorporate all human rights into the rule of law's meaning by acknowledging the absence of "a standard of human rights universally agreed even among civilized nations."[69] Nevertheless, Lord Bingham maintains that "[t]he rule of law must, surely, require legal protection of such human rights as, within that society, are seen as fundamental."[70]

A rule of law course could expand on the question of whether human rights should be included within the rule of law's definition. Probably more fruitful, however, would be considering the relationship between the rule of law and human rights. These three articles could launch that inquiry: Evan Fox-Decent, *Is the Rule of Law Really Indifferent to Human Rights?;*[71] Mary Ann Glendon, *The Rule of Law in the Universal Declaration of Human Rights*;[72] and Randall Peerenboom, *Human Rights and the Rule of Law: What's the Relationship?*[73]

B. The Rule of Law Beyond Its History and Meaning

Various options are available if the course's goal is to devote most or all its coverage to the rule of law instead of moving to a related topic, such as corruption. One option is to examine the rule of law's role in economic and governance development. The resources available on this

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[65] *History and Elements of the Rule of Law*, supa note ___, at 4.
[66] Id.
[67] *Lord Bingham*, supra note ____, at 75-76.
[68] Id.
[69] Id.
[70] Id. at 77.
[71] 27 Law and Philosophy 533 (2008).
[72] 2 Nw. J. Int'l of Hum Rts. 1 (2004).
[73] UCLA School of Law, Public Law & Legal Theory Research Paper Series, Research Paper No. 05-31 (2005).

subject are extensive. But they are beyond this essay's scope because my course has not gone in this direction.

I have, however, sometimes assigned Rachel Kleinfeld Belton's *Competing Definitions of the Rule of Law: Implications for Practitioners*[74] when I have wanted to expose my students to the differences between academic commentary on the rule of law and its meaning for economic and governance development practitioners. And I have sometimes paired that reading with Robert W. Gordon's *The Role of the Lawyer in Producing the Rule of Law: Some Critical Reflections*,[75] which, as its title suggests, looks critically at the rule of law as practiced by lawyers engaged in economic and governance development. For purposes of this essay, noting that the writings on the rule of law's role in economic and governance development are numerous should be sufficient to encourage others to take a rule of law course in this direction if they wish.[76]

Another direction in which a rule of law course could go after introducing the rule of law's history and meaning is to explore its relationship with religion. The writings on this subject include Peter J. Hill's *The Religious Origins of the Rule of Law*;[77] Nathan B. Oman's *Commerce, Religion, and the Rule of Law*;[78] Mark Fathi Massoud's *Theology of the Rule of Law*;[79] David A. Skeel, Jr.'s and William J. Stuntz's *Christianity and the (Modest) Rule of Law*;[80] Marc O. DiGirolamo's *Faith in the Rule of Law*;[81] and Lawrence Rosen, *Islamic Conceptions of the Rule of Law*.[82] I have covered this topic in my rule of law course and doing so is well worth considering.

III. The Transition from the Rule of Law to Corruption

After I have covered the rule of law's history and meaning, I have transitioned to covering corruption. I have done this in two ways. The first has been to initially cover corruption in a particular country, usually Russia, or a region, usually Eastern Europe and Central Asia, and then move to corruption's causes and consequences.

The second way has been to move directly to corruption's causes and consequences, either omitting a unit focused on corruption in a particular country or region or deferring it until after

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[74] Rachel Kleinfeld Belton, Competing Definitions for the Rule of Law: Implications for Practitioners, Carnegie Endowment for International Peace, Carnegie Papers, Rule of Law Series No. 5 (Jan. 2005)

[75] Robert W. Gordon, The Role of the Lawyer in Producing the Rule of Law: Some Critical Reflections, 11 Theoretical Inquiries in Law 441 (2010).

[76] A good place to start in this direction is with Carnegie Endowment for International Peace, Promoting the Rule of Law Abroad: In Search of Knowledge (Thomas Carothers, ed. 2006).

[77] Peter J. Hill, The Religious Origins of the Rule of Law, 16 J. of Int'l Economics 305 (2020).

[78] Nathan B. Oman, Commerce, Religion, and the Rule of Law, 6 J. of Law, Religion and State 213 (2018).

[79] Mark Fathl Massoud, 11 Hague Journal on the Rule of Law 485 (2019).

[80] David A. Skeel, Jr. & William J. Stuntz, Christianity and the (Modest) Rule of Law, 8 J. of Constitutional Law 809 (2006).

[81] Marc O. DeGirolami, Faith in the Rule of Law, 82 St. John's L. Rev. 573 (2008).

[82] Lawrence Rosen, Islamic Conceptions of the Rule of Law in The Cambridge Companion to the Rule of Law ch. 4 (Jens Meirerhenich & Martin Loughlin, eds. 2021).

covering corruption's causes and consequences. I cannot say that one approach works better than the other. But I favor focusing on one or more countries at some point because this offers the opportunity to discuss corruption in the context of a place's history, governance, and culture.

In any case, I introduce corruption with Ben W. Harrington, Jr.'s and Fritz Heimann's classic article, *The Long Road Against Corruption*, published in Foreign Affairs in 2006.[83] Earlier and later writings are available, but *The Long Road Against Corruption* has consistently been well received by my students. Along with this article, I used to assign U Myint's article, *Corruption: Causes, Consequences and Cures*, published in 2000.[84] But more recently I have assigned Dominik H. Enste's and Christina Heldman's 2017 paper, *Causes and Consequences of Corruption—An Overview of Empirical Results,*[85] instead of U Myint's article because it is more recent and comprehensive.

The core writing in my course's coverage of corruption is Tina Søreide's *Drivers of Corruption: A Brief Review*, a report that Professor Søreide prepared in 2014 for the World Bank.[86] At almost 100 pages, of which about fifty-eight pages are text, the report's "brief review" is brief only in the sense that more could be said about all that the report covers. Nonetheless, the report's length is manageable because Professor Søreide's writing is taut and engaging. For those and other reasons, it is relatively easy to read. To make it even easier to handle, I created a lengthy set of PowerPoint slides covering Professor Søreide's major points.

Drivers of Corruption begins with an overview of public and private sectors where corruption is commonly found; that is, where the risks of corruption are the greatest. These sectors offer "framework conditions" for corruption. As Professor Søreide explains, corruption must be seen as more than an individual's decision to act corruptly. Instead, that decision must be seen in context. And this context includes "the external factors relevant to an individual's that the individual cannot influence."[87] These "framework conditions" form "layers of explanatory factors" for the corrupt individual's decision. These factors include the "[c]haracteristics of a given country; its political situation; its society, history, and norms; institutional qualities; a given setting; and the cast of players . . . ."[88]

Particularly useful for law students are the different weights that various academic disciplines place on these layers of explanatory factors and, as a result, the different explanations for corruption and policy recommendations that ensue. As Professor Søreide explains:

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[83] Ben W. Heineman, Jr. & Fritz Heimann, The Long Road Against Corruption, 5 Foreign Affairs 75 (May-June 2006).
[84] U Myint, Corruption: Causes, Consequences and Cures, 7 Asia-Pacific Development J. 33 (Dec. 2000).
[85] Dominik H. Enste & Christina Heldman, Causes and Consequences of Corruption—An Overview of Empirical Results, Institut der deutschen Wirtschaft Köln, IW Repor 2/2017 (Jan. 2017).
[86] Tina Søreide, Drivers of Corruption: A Brief Review (Int'l Bank for Reconstruction and Dev., World Bank Group) 2014.
[87] Id. at 5.
[88] Id.

> Economists typically address the incentives of the individuals involved or the profit maximizing strategies of firms . . . . Psychologists and behavioral scientists add nuance to economic theories by explaining the limits of human rationality . . . . Anthropologists and sociologists typically address how framework conditions and history shape cultural norms and individual assessments of right and wrong. Political scientists tend to describe the mechanics of the larger governance system, including functional weaknesses in checks and balances and various power games. The conditions for holding players responsible are addressed primarily by the legal discipline.[89]

Although law students typically approach corruption's drivers as lawyers would, most have undergraduate backgrounds in one or more of the disciplines other than law that Professor Søreide mentions. The students' backgrounds are often reflected in class discussions about corruption. This enriches and enlivens these discussions, thus offering another reason for recommending *Drivers of Corruption* as the central reading about corruption.

In addition to examining corruption from the vantage of a range of differing perspectives, including the psychology underlying a corrupt individual's actions, I use *Drivers of Corruption* to introduce whistleblowing. Whistleblowing almost always inspires considerable interest.

Discussing whistleblowing offers the context in which to ask the course's students a provocative question: what would you, the student, do if you discovered a colleague, say, at a law firm, had fraudulently overbilled one of the firm's clients?[90] This is not a fanciful hypothetical; too often lawyers have fraudulently overbilled clients.[91]

Rule 8.3(a) of the American Bar Association Model Rules of Professional Conduct requires that "[a] lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate authority."[92] Rule 8.4(c) defines "professional misconduct" to include conduct "involving dishonesty, fraud, deceit or misrepresentation."[93] Thus, the students' "proper" answer should be that they would report their colleague's misconduct.

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[89] Id. (footnotes omitted).

[90] See Michael A. Fisher, Why Does Doing the Right Thing Have to Be So Hard? A Law Firm Partner's Difficult Decision on Whether to Report Suspected Misconduct, 87 Marq. L. Rev. 1005 (2004).

[91] See, e.g., Stuart L. Pardau, Bill, Baby, Bill: How the Billable Hour Emerged as the Primary Method of Attorney Fee Generation and Why Early Reports of Its Demise May Be Greatly Exaggerated, 50 Idaho L. Rev. 1, 6 (2023) (noting and discussing "a growing body of empirical evidence that deceptive billing practices are common occurrences." (internal footnote omitted)). See generally Randy D. Gordan & Nancy B. Rapoport, Virtuous Billing, 15 Nev. L.J. 698 (2015) (discussing, among other topics, the "virtues" and "vices" of lawyer billing).

[92] Model Rules of Prof'l Conduct R. 8.3(a) (1983).

[93] Id. R. 8.4(c).

This, however, is not the answer that all students offer. Nor would all lawyers. Whistleblowing involves a tradeoff between fairness and loyalty, according to research by professors at Boston College and Northwestern University.[94] Their research considered personal, situational, and cultural factors that they found predicted whistleblowing. In general, the personal factors that predicted whistleblowing reflect "personality traits that support nonconformity."[95] Likewise, "situational factors that facilitate disobedience to authority, both practically and ideologically, also increase whistleblowing."[96] And they found that people in collectivist societies were more likely to respond to those societies' emphasis on loyalty and thus were less likely to be whistleblowers.[97]

Although characterizing whistleblowing as a tradeoff between fairness and loyalty is itself fair, more can be said about the personal, situational, and cultural factors that influence whether an individual chooses to be a whistleblower.[98] And in my experience, students are quite good at identifying these factors on their own. They recognize the unfairness of allowing dishonesty to go unreported and therefore unpunished. Yet they also recognize loyalty's importance.

As to loyalty's importance, students invoke the maxim, "to get along, go along." And they know the derogatory labels, such as "snitch" and "stool pigeon," that are applied to whistleblowers. More important, they recognize that employers often retaliate against whistleblowers, including by firing them. When they put themselves in the shoes of someone who faces the choice of whether to report a colleague for misconduct, they weigh these and other considerations, including the quality of their relationship with that colleague. That is, they say that whether they like or dislike that colleague matters.

I ask the students to watch the well-known documentary film, *The Smartest Guys in the Room*,[99] which chronicles Enron's collapse. This film reveals the emotional costs of unquestioning loyalty to Enron. It does this through interviews with Enron employees after they learned of the extent and consequences of the frauds committed by some of its officers and employees. And it features interviews of Sherron Watkins, the whistleblower whose revelations significantly contributed to Enron's demise. The film implicitly invites its viewers to personally relate in some way to Enron's employees and others, protagonists and victims alike.

After the course covers whistleblowing, I assign various articles published in popular periodicals, including newspapers that offer insights into why people acted corruptly. For example, Sam

[94] James Dungan, et al., The Psychology of Whistleblowing, 6 Current Opinion in Psychology 129, 129 (2015).
[95] Id.
[96] Id. at 130-31.
[97] Id. at 131.
[98] I assign Kath Hall, The Psychology of Corporate Dishonesty, 19 Austl. J. Corp. L. 268 (2006), to introduce the students to expand on the psychological influences on the decision to be a whistleblower.
[99] The Smartest Guys in the Room was written, directed, and produced by Alex Gibney; released in 2005; and distributed by Magnolia Pictures.

Polk's opinion piece in the New York Times, *For the Love of Money*,[100] chronicles his addiction to money while he was a Wall Street trader. Articles like this are relatively easy to find and, when compared to scholarly writing, easy to read.

I typically end my course with readings about the lawyer's role in promoting the rule of law. I occasionally use a bar association report or a law review article reprinting a speech about the rule of law someone has delivered at a conference or symposium. But I usually use less dense and more easily relatable readings.[101]

Before my courses have ended, however, I usually will have covered topics that I have not mentioned in this essay. These include judicial independence, access to the legal system, prosecutorial discretion, and other topics bearing on the rule of law. Typically, I cover topics like these because the course's students have asked to cover them. I build this flexibility into the course by asking the students to help steer the course's direction. Sometimes this leads to discussions as broad as how to live a meaningful life as a lawyer, thus giving the course elements of a "capstone" course, one that serves to help law students transition to the next stages of their lives.

Notably absent from my course is any "blackletter" law. I intentionally avoid it, if only on the theory that law schools should leave some space that is not freighted with case law or positive law. Therefore, when I have covered the Foreign Corrupt Practices Act and the UK Bribery Act, as I occasionally have, I cover only the concepts of criminalizing the act of giving a bribe as well as the act of receiving a bribe and the merits of extraterritorial jurisdiction.

Finally, the space that I have left in my course that is free of blackletter law is for the students to fill with their thoughts, ideas, opinions, and the like. My course is as discussion-based as I can make it. And I have had some success with this approach. An anonymous student wrote on his or her course evaluation words to the effect that my course was the first course he or she had taken in undergraduate and law school in which his or her thoughts mattered. This, plus the recognition that the rule of law matters, as does a commitment to advance it, is why I teach the rule of law and why I have structured it in the various ways that I have.

IV. Conclusion

Teaching the rule of law probably demands various ways of teaching. After all, rigid orthodoxy would be hard to find in the rule of law's various meanings and in the diverse benefits the rule of law offers or potentially offers. But it should be taught. The rule of law's existence depends on its being understood. And considerable responsibility for understanding it falls on lawyers,

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[100] Sam Polk, For the Love of Money, New York Times Sunday Review, Jan. 18, 2014 (available at http://nyti.ms/1dweEBw).

[101][101] Most often I have used Michael B. Brennan & Alexander Dushku, Each Lawyer's Crisis, 83. Marq. L. Rev. 831 (1998); William D. Henderson, Successful Lawyer Skills and Behaviors in Essential Qualities of the Professional Lawyer 53 (William D. Henderson, ed. 2014); and Sid Wolinsky, Letter to a Young Public Interest Attorney, 1 Los Angeles Pub. Interest L.J. 338 (2009).

for they depend upon it. They depend upon it for more than their livelihood. They depend upon it for the meaning of their work. They depend upon it as the foundation of their professionalism. The rule of law animates what lawyers do and how they do what they do. The rule of law can be taught in various ways, and each way has the promise of making a difference by advancing the rule of law and lawyer professionalism and making the practice of law more meaningful.