

# Rule of Law Colloquium

Spring 2025  
Christopher R. Kelley  
Associate Professor of Law  
University of Arkansas School of Law  
Fayetteville, Arkansas  
[ckelley.christopher@gmail.com](mailto:ckelley.christopher@gmail.com)  
Mobile: +1-301-412-5234



## Invitation to Participate in My Spring 2025 Rule of Law Colloquium

I invite students and faculty of the State Tax University in Irpin, Ukraine, to participate in my Spring 2025 Rule of Law Colloquium course. This course focuses on the rule of law's meaning and significance and corruption, its causes, consequences, and cures. More information follows this invitation, all of which also appears in the course information that I have distributed to the University of Arkansas School of Law students enrolled in the course. Here is information specifically for you:

The course will meet on Wednesdays from 8:00 to 9:45 a.m, U.S. Central Time.

The course begins on Wednesday, January 15, and ends on Wednesday, April 23. We will not meet class on Wednesday, March 26, because that week is spring break week at the University of Arkansas.

The course is discussion-based. I will send you the reading materials by email.

You will participate on Zoom. I will send you the Zoom information before classes start.

You will not have to pay anything to participate. Although I therefore cannot award you academic credit, I will award you a certificate for your course participation.

I will welcome your regular participation. But you may attend as frequently as you want or as your schedule permits.

To enroll send me an email: [ckelley.christopher@gmail.com](mailto:ckelley.christopher@gmail.com).

I have taught this course since 2009 and converted it to a transnational course in 2015. I am looking forward to you joining us.

## Course Information

### Dedication

This course is dedicated to Elizaveta (“Liza”) Dmytrieva and all the infants and children Russia has murdered in its criminal war against Ukraine. Liza died in Vinnytsia, Ukraine, on July 14, 2022. Both her and her mother were struck by a Russian missile’s shrapnel as her mother pushed Liza in her stroller on their way to Liza’s speech therapist. Born with Down syndrome, Liza was buried in a white dress, a wreath of flowers draping her head, and her favorite toy, a mouse, at her side. Liza was four years old.



## About This Course

### Welcome

I welcome you to the Spring 2025 Rule of Law Colloquium course. I am looking forward to working with you during this course.

### How To Reach Me

My office is in Room 317. You may reach me as follows:

Mobile telephone number: +1-301-412-5234  
E-mail: [ckelley.christopher@gmail.com](mailto:ckelley.christopher@gmail.com)  
You also may use [ckelley@uark.edu](mailto:ckelley@uark.edu),  
but I check my Gmail account more often.

### Course Schedule

This course is scheduled to meet on Wednesdays from 8:00 to 9:45 a.m. in Room 254. We

might need to change the classroom or make other accommodations if the course's enrollment exceeds Room 254's capacity.

### The Inspiration for this Course

This course was inspired by the World Justice Project ( <http://worldjusticeproject.org/> ). I encourage you to browse the WJP website.



The WJP was created by William H. Neukom, a past President of the American Bar Association and the former General Counsel of Microsoft. After listening to him explain at an ABA Section of International Law conference in London why he believes that every law school should have a rule of law course and working with him and others at the WJP's first World Justice Forum in Vienna, Austria, in 2008, I created this course in 2009.

As I have done since 2009, I will try to keep this course true to the WJP's spirit by keeping its focus on contemporary, global rule of law issues. Thus, as did the WJP at its inception, we will begin by examining what the "rule of law" means. We will move from there to how the rule of law is achieved, how it is lost, and what it means to societies where it is found and where it is absent or weak.



One of the WJP's goals is to foster understanding of the rule of law throughout the world and across all professions and occupations. In other words, the WJP seeks to bring the rule of law into the "mainstream" of human thought and action. This, too, is among this course's goals. Indeed, encouraging you to think about what the rule of law means to you this course's central goal.

Before turning to more about this course's goals, I want to emphasize that this course is a discussion-based course. Your thoughts matter in this course. This course's goals are achieved by your participation in our class discussions. Therefore, your active participation in our classroom discussions are essential to you and your colleagues gaining what this course offer.

### This Course's Goals

The "rule of law" lacks a universal definition. In its narrowest sense, it is a state of affairs in which no one is above the law. But for many this definition is too narrow. They decry the

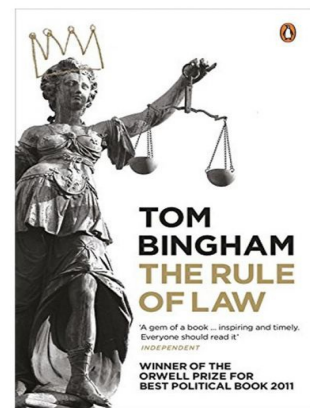
omission of any mention of human rights, for example. As a result of this and other disagreements over its proper scope, the rule of law has competing and contested “thin” and “thick” definitions. And the “thicker” the definition becomes, the more disagreement about its meaning grows.



For instance, consider the question of whether the definition of the rule of law should include human rights. If it should include human rights, which human rights should be included? To avoid such disputes, the rule of law’s narrowest definitions say nothing about the content of the “law.” Yet, if the rule of law is silent about the law’s contents, is achieving the rule of law a worthy goal?

The late Lord Tom Bingham, a vigorous, steadfast champion of the rule of law, characterized the rule of law as “the nearest we are likely to approach to a universal secular religion.”<sup>1</sup> If the rule of law is “the nearest we are likely to approach to a universal secular religion,” its worldwide spread accelerated relatively recently. In Eastern Europe, for example, the rule of law’s spread began barely thirty-three years ago, and its adoption there remains incomplete:

‘[T]hroughout the 1990s Eastern Europe was arguably the region most intensely studied and discussed by the community of scholars interested in the spread of the Rule of Law around the world.’ The seed then born has sprouted and spread. Today the rule of law is a, perhaps *the*, mantra of transition throughout the world. But at the same time as it is highly valued, consensus as to what it involves is elusive, and as to how it might be attained perhaps even more so.<sup>2</sup>



Given this and the recent data that shows that the rule of law is declining in some countries, including in the United States,<sup>3</sup> you are living during a time when the rule of law is still being defined and developed. Although it remains a sought-after ideal throughout much of the world,

---

<sup>1</sup> Tom Bingham, *The Rule of Law* 174 (2010).

<sup>2</sup> Martin Krygeir, *The Fall of European Communism: 20 Years After*, 1 Hague J. on the Rule of Law 195, 196 (2009)(quoting Venelin I. Ganey, *The Rule of Law as an Institutionalized Wager: Constitutions, Courts and Transformative Social Dynamics in Eastern Europe*, 1 Hague J. on the Rule of Law 263, 264 (2009)).

<sup>3</sup> World Justice Project Insight, *Over 6 Billion People Live in a Country Where the Rule of Law Is Declining* (2023), <https://worldjusticeproject.org/rule-of-law-index/insights>.

the rule of law ebbs and flows everywhere, as it always has. Its advance in many parts of the world is elusive and incomplete. And wherever it is found, it remains fragile.

The rule of law is important to everyone, save tyrants and others who benefit from the rule *by* law, not the rule *of* law. Given this, this course's central goal is to help you answer this question: What does the rule of law mean to you and why?

To help you answer this question, this course will examine two broad topics: the rule of law's meaning and significance and corruption, its causes, consequences, and cures.

Although this course will probably introduce you to the Foreign Corrupt Practices Act, the UK Bribery Act, and other anti-corruption initiatives, our coverage of these initiatives will be in the context of why corruption exists and ways to address it, including through means other than legal prohibitions. In other words, this course is less about "blackletter" law and more about how law, culture, human psychology, and other influences on our behavior foster or inhibit the rule of law.



This course is flexible. In the spring 2022 semester, for example, after February 24, this course's coverage shifted to Russia's unlawful, full-scale invasion of Ukraine for the remainder of the semester. And it has shifted less dramatically on other occasions. Because this course is for you, I will welcome your help in steering it.

This course is also practical. Absent the rule of law, lawyers are, at best, influence peddlers and, at worst, bag carriers for bribes. And even when the rule of law prevails, our obligations to uphold the law can conflict with the social pressures and psychological forces that influence all humans. For an example, consider these facts: you have learned that an attorney in your firm submitted intentionally inflated bills to his or her clients. What would you do? We all know what the rules of professional responsibility require—this conduct must be reported. But you also know adage "to get along, go along." We all want to be liked and to be a "team player." Consider, too, why "whistleblowers" are sometimes characterized as "snitches" or "stool pigeons" and are often fired and saddled with difficulties finding other employment. Being unemployed will hurt—if not emotionally and financially devastate—you and your family. And what if the offending lawyer in your firm is your friend or someone you do not like? Do your personal feelings about the offender matter?

The academic definitions of the rule of law do not necessarily inform us about how we should behave as individuals in all circumstances. But looking at the rule of law's "flip-side"—corruption—can tell us much about ourselves and others. And this is why we will consider the drivers of corruption. In this context we will talk about the tension between wanting to serve the truth and wanting to be loyal and liked. This tension is within each of us as human beings. Therefore, this course and your discussions in class will give us a broader view of the

influences affecting us than what the “rules” require. In the end, the rule of law and all that is associated with it is about human beings, each searching for the “right” answer, often under difficult circumstances. This broader view—one that looks at the forces within and around us—will, I believe, help you in your careers and in your life outside of your career.

In sum, this course is about inquiry and exploration. You will not be asked to memorize rules, synthesize cases, and the like. Instead, you will be asked to think and to discuss your thoughts. By us working together in this way, my goal is to bring you to a place where you can answer, for now, what the rule of law means to you and why. In the end, this course is largely about you and your relationship with something we call the “rule of law.”

However important I believe it is for each of us to ask and answer what the rule of law is and means to us, you have another reason to study the rule of law—advancing your career. Start with the world’s largest bar associations—the American Bar Association and the International Bar Association. Both Associations seek to advance the rule of law, and both offer opportunities for you to become involved in their respective efforts.



the global voice of  
the legal profession

Consider also employment opportunities. Numerous governmental and non-governmental organizations exist to promote the rule of law. On the governmental side, militaries, including the United States military, employ rule of law officers. And private law firms participate in rule of law-related work on fee and pro bono bases. At least one large international law firm has offered its governmental clients full service “packages” that cover everything from recovering stolen governmental assets to reforming administrative agencies to limit, if not eliminate, corruption.

Knowing what the rule of law is and understanding its flip-side, corruption, can therefore help you develop you career across a broad spectrum.



Absent the rule of law, lawyers lack a meaningful role. Therefore, the extent to which the rule of law is achieved and maintained will influence how satisfied you are with your legal education and your career. This is why I welcome your help in shaping this course. So let’s work together toward making this course work for you and towards the answer to the question of what the rule of law means to you and why.

Finally, we are more than lawyers—we are talented and caring human beings. And the success of our careers does not solely determine the meaning of our lives. We are a part of the family of humankind and live in societies that are interconnect in undeniable and unavoidable ways. Russia’s ongoing horrific and brutal war against Ukraine, a war steeped in Russian criminality and immorality, offers us lessons about what the rule of law’s absence

means and raises questions about justice that we ignore at our peril as lawyers and humans. Our humanity means that this war and other wars, past and present, their lessons will undergird our studies and discussions.

### **Course Materials**

We will not use a text in this course. Instead, the readings will be articles, monographs, and scanned material from books. We will watch several films, TED Talks, and similar presentations. And I hope to have several guest lecturers join us in person or remotely.



### **Class Attendance and Participation**

This is a discussion-based course that will work best when you regularly join the discussion. Please come to class regularly, promptly, and prepared. If you must miss a class, please send me an email letting me know the reason for your absence if you wish for me to consider excusing. I will consider class attendance and participation when assigning course grades. As you know, the ABA and the Law School expect you to spend at least two hours outside of class reading or otherwise preparing for class for each hour of class time.

If for illness or other good reason you need to participate by Zoom, please let me know, preferably in advance. I will discuss this in greater detail in our first class session. For now, know that this course is not a distance course unless you have registered for it as an LL.M. distance student. Therefore, your opportunities to participate remotely will be limited.

*Note: As a student who is not enrolled in the course for credit, you are not required to take the exam. But you may take the exam if you want. I will read it.*

### **The Exam**

You will write a “paper” for your exam. This course is not a seminar course. Therefore, your paper will not be of the kind or length typical of semester-length paper. Instead, my intent is for you to write a paper of the kind and length that you would write during the course’s final two or three weeks and extending into the exam period. I will say more about this in class. If you want more guidance now, read the second paragraph in the appended exam’s “General Instructions” section.

I have appended the Spring 2024 exam. Your exam will have the same option that it has to write an essay explaining what the rule of law means to you and why. And like the Spring 2024 exam, if you chose not to write about what the rule of law means to you, you may write about any other topic relevant to the rule of law.

In other words, your exam will look substantially like the Spring 2024 exam, including Option B, which offers the option of writing about Russia's war against Ukraine. From its start of the war in 2014, Russia has flagrantly disregarded international law. For those who believe that the rule of law should include international law, including the law of war, Option B will be available to you.

### **Disability Accommodations**

The University of Arkansas abides by all state and federal laws protecting persons with disabilities, including Section 504 of the Rehabilitation Act of 1973, which stipulates that no student shall be denied the benefits of an education "solely by reason of a disability." Disabilities covered by law include, but are not limited to, learning disabilities and hearing, sight or mobility impairment. Students with disabilities may request academic adjustments as provided under federal law. All such requests should be made by first contacting the Center for Educational Access: ARKU 104, Fayetteville, AR 72701 (479) 575-3104 (Voice), (479) 575-3646 (TDD), web: <http://cea.uark.edu/>. Additional information about the accommodation process may also be obtained from Associate Dean for Academic Affairs Tiffany Murphy at (479) 575-4573 or [tiffanym@uark.edu](mailto:tiffanym@uark.edu). I will update this information as new information becomes available.

### **Mental Health Services**

The University of Arkansas provides counseling services to students through the Pat Walker Heath Center's Counseling & Psychological Services (CAPS), which offers critical mental health services such as individual counseling, group counseling, psychiatry, emergency services, and case management. Although some services, such as ongoing individual counseling and psychiatry have minimal charges, most services are offered free. Additionally, JLAP provides lawyers and law students similar services without charge. Please reach out to either organization if you need assistance.

### **Inclement Weather**

We will probably meet on Zoom when the University is closed because of inclement weather. Absences will be excused. I will tell you more about this in class after I have learned your preferences about meeting remotely when the University closes because of the weather.



## Emergency Procedures

Many types of emergencies can occur on campus; instructions for specific emergencies such as severe weather, active shooter, or fire can be found at [emergency.uark.edu](http://emergency.uark.edu).

### **Severe Weather (Tornado Warning):**

- Follow the directions of the instructor or emergency personnel
- Seek shelter in the basement or interior room or hallway on the lowest floor, putting as many walls as possible between you and the outside
- If you are in a multi-story building, and you cannot get to the lowest floor, pick a hallway in the center of the building
- Stay in the center of the room, away from exterior walls, windows, and doors

### **Violence/Active Shooter (CADD)**

- **Call** 911
  - **Avoid** - If possible, self-evacuate to a safe area outside of the building. Follow directions of police officers.
  - **Deny** - Barricade the door with desks, chairs, bookcases, or any other items. Move to a place inside the room where you are not visible. Turn off the lights and remain quiet. Remain there until told by police it's safe.
  - **Defend** - Use chairs, desks, cell phones, or whatever is immediately available to distract the assailant or to defend yourself and others from attack.
- 

## Spring 2024 Exam

### Rule of Law Colloquium

Spring 2024

Christopher R. Kelley

[ckelley.christopher@gmail.com](mailto:ckelley.christopher@gmail.com)

Mobile: 301-412-5234

## Final Exam

### Option A

For your final exam in this course, you are to write a paper on a rule of law topic of your choice. By "paper," I mean a writing that fits within a wide range of genres, including a personal

essay, an analytical exposition, an informed commentary, a real or imagined interview, or a fictional narrative, such as a short story or a drama. I intend, however, to exclude poetry unless you convince me in advance that it will reflect sufficient qualitative thinking about the rule of law or an aspect of it.

By “rule of law,” I intend to include relatively thick definitions of the rule of law such as those proffered by the World Justice Project and Lord Tom Bingham, both of which include at least some human rights.

I also intend for “rule of law” to include corruption and other forms of dishonesty. This may include corruption and other forms of dishonesty that have affected or might affect you. The latter includes your thoughts about you might do if you encounter corruption or other forms of dishonesty during your career practicing law, other career pursuits, or activities outside of your work.

For example, your paper can be a personal essay about what the rule of law or some aspect of it has meant to you, means to you, or is likely to mean to you in your professional and personal life. In lieu of a personal essay along these lines, you may express the thinking and views of a fictional person, like or unlike you. If you wish, you may confront this person with instances that test his or her commitment to the rule of law, or you may imagine this person in circumstances in which the rule of law is weak or absent.

Or you may write a paper that is light on the first person, real or fictional, or that avoids it altogether. For example, you could offer and defend a definition of the rule of law that you think is superior to the ones we have encountered in this course.

Or your paper can be an analytical writing on the rule of law generally or some aspect of it. You could, for instance, locate a writing on the rule of law and comment on it. Likewise, you could comment on one or more causes of corruption, including how our cognitive biases favor or disfavor one or more forms of corruption.

Other possibilities for commentary include your thoughts about rule of law issues in a novel, such as George Orwell’s *1984* or William Golding’s *Lord of the Flies*. Or you can comment on current events from a rule of law perspective.

Or, moving closer to the law review article model, you could take a feature of one or more anti-corruption laws, such as the FCPA and the UK Bribery Act, and write about an aspect of one or more of them. The academic literature on the FCPA is voluminous, and you might wish to write about the FCPA because we did not cover it in this course much beyond mentioning it.

Also, there is much room for inquiry and commentary about Enron and whistleblowing, including why it seems that ignoring corruption prevails over whistleblowing. Cultural influences on the rule of law, including why some cultures are more or less corrupt than others, also offers fodder for inquiry and commentary. Another, related, topic is an inquiry into whether democracies are less corrupt than other forms of government. Or you could focus on corruption in a particular country at a particular time. The possibilities are many.

Finally, you may write about the rule of law and Russia's war against Ukraine. For example, you could identify and discuss key issues in investigation and prosecution of one or more types of war crimes or crimes against humanity. As you do with other subjects and their rule of law implications, you have broad discretion on how you write about the rule of law and Russia's war against Ukraine.

## **Option B**

In lieu of Option A, you may write a paper about Russia's war against Ukraine that does not address the rule of law. I am giving you this option because not all our experiences, thoughts, emotions, and the like are tied to or directly relatable to the law. None of us leave our personhood outside the law school when we walk through its doors. If you want to take off your law student hat and write about any aspect of Russia's war against Ukraine from any perspective without ever using the word "law," you may do so under this option. For this option, a "paper" has the same meaning as it has in Option A.

## **General Instructions**

Whatever your choice of option, topic, or style, your paper should be thoughtful, well-informed, and within the bounds of this exam. I intend through Option A for you to gain a greater understanding of the rule of law and its day-to-day implications for you and others in a way that is meaningful for and interesting to you. And through Option B, I intend for you to gain a greater understanding of Russia's war against Ukraine and its implications for you and others that is meaningful for and interesting to you wholly apart from the rule of law.

No minimum or maximum page limit applies. This is a two-credit course, and your paper is not a semester-length paper. But neither is this an in-class, two-hour exam. I anticipate that most papers will range from six to nine single-spaced pages, using a twelve-point font for body text. Try not to exceed twelve single-spaced pages.

Only rough-and-tumble compliance with BlueBook citation forms is required. You need only provide enough information for me to can locate the sources you cite. If you rely on information found on the web, please include its URL I am always looking for more materials on contemporary rule of law issues, and I will be grateful to be introduced to materials I have not discovered.

Of course, you do not need to cite to any sources if you write a personal essay based entirely on your own experiences and thoughts or something like this.

Please strive to write well. I am favorably influenced by good writing. To offer you some help in doing this, Richard C. Wydick's *Plain English for Lawyers*, 66 Cal. L. Rev. 727 (1978), and Christopher R. Kelley, *An Essay on Legal Writing in Plain English*, 4 Kyiv-Mohyla Law & Politics J. 175 (2018), accompany this exam.

Finally, please submit your response in a pdf file. If you cannot do this or forget to do this, do not panic. A Word or WordPerfect file will do. But please put your exam number as a footer or header on every page.

#### *Submission Deadline*

You must submit your responses by [*I have omitted this exam's due date and time to avoid confusion about when your exam is due*]. Do not wait until the last minute—too many things can go wrong if you do. You may submit your exam before the deadline.

Submit your responses by email to Bonnie Heather Miller: [bhmiller@uark.edu](mailto:bhmiller@uark.edu). Bonnie is the LL.M. Program Coordinator. She works from home. Her Law School telephone number is 575-6664.

**Please write "ROL Exam" in your email's subject field.** Bonnie will be receiving other course's exam responses during the exam period. Including "ROL Exam" in your email's subject field will help her to organize the exam responses she receives. If you fail to write "ROL Exam" in the email's subject field by which you send your exam response, she will need to open your exam, read enough of it to learn that you are submitting responses to this exam, and then file your exam in the appropriate folder. This consumes time that she could have put to a better use. So I will repeat: Please write "ROL Exam" in your email's subject field.

#### *If You Need to Reach Me*

My mobile phone number is 301-412-5234. Please write to me at this address: [ckelley.christopher@gmail.com](mailto:ckelley.christopher@gmail.com). I check it more frequently than I check my uark.edu mail.

Please let me know as soon as possible if you have any questions about any of this.

I will be departing for Tbilisi, Republic of Georgia, on Friday, April 26, to meet the Tbilisi State University International Law Institute master's students whom I have been teaching this semester. I am scheduled to return to XNA shortly before midnight on Wednesday, May 1.

Tbilisi's time is ten hours ahead of Fayetteville's. This time difference and my circumstances might delay my response to an email inquiry. My mobile phone, however, will work in Tbilisi (and nearly everywhere else outside the U.S., except when I am in the air). Therefore, you may call or text me if you need a quicker response than an emailed response.

*End of Exam*

**End of Course Information Document**