

PHIL 3040 PHILOSOPHY OF LAW

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Office Hours: Wed. 1:30-3:30

Fall Term 2015
M/W/F 9:30 – 10:20
Mackinnon 121
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Course Description:

This course is an introduction to the major themes and topics in the philosophy of law. Through an examination of classical and contemporary readings related to this topic, we will address such issues as the scope and nature of law, the relationship between law and individual freedom, justifications for legal punishment and the nature of international law. As the course progresses students will acquire the tools that are necessary to think critically about the foregoing topics. Authors will include Thomas Aquinas, H.L.A. Hart, Peter Singer and the British jurist Patrick Devlin.

Required Text:

- Keith Culver, ed. *Readings in the Philosophy of Law*. 2nd edition. Peterborough: Broadview Press, 2005.

Course Requirements:

- Paper (40%)
- 3 in-class quizzes (3 x 20% = 60%)
- **Please note: there will not be a final exam in this course.**

E-mail Communication

As per University regulations, all students are required to check their **uoguelph.ca** e-mail account regularly: e-mail is the official route of communication between the university and its students.

When You Cannot Meet a Course Requirement

When you find yourself unable to meet an in-course requirement because of illness or compassionate reasons, please advise the course instructor (or designated person, such as a teaching assistant) in writing, with your name, ID#, and e-mail contact. See the Undergraduate Calendar for information on regulations and procedures for Academic Consideration:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c08/c08-ac.shtml>

Drop Date

The last date to drop one-semester **Fall 2015** courses, without academic penalty, is **November 6, 2015**. For regulations and procedures for Dropping Courses, see the Undergraduate Calendar: <http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c08/c08-drop.shtml>

Copies of out-of-class assignments

Keep paper and/or other reliable back-up copies of all out-of-class assignments: you may be asked to resubmit work at any time.

Student Rights and Responsibilities

Each student at the University of Guelph has rights which carry commensurate responsibilities which, broadly, being a civil and respectful member of the University community. The Rights and Responsibilities are detailed in the Undergraduate Calendar:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c14/c14-strightsrespon.shtml>

Academic Misconduct

The University of Guelph is committed to upholding the highest standards of academic integrity and enjoins all members of the University community – faculty, staff, and students – to be aware of what constitutes academic misconduct and to do as much as possible to prevent academic offences from occurring. The Academic Misconduct Policy is detailed in the Undergraduate Calendar:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/c08/c08-amisconduct.shtml>

Recording of Materials

Presentations which are made in relation to course work—including lectures—cannot be recorded in any electronic media without the permission of the presenter, whether the instructor, a classmate or guest lecturer.

Resources

The Undergraduate Calendar is the source of information about the University of Guelph's procedures, policies and regulations which apply to undergraduate programs. It can be found at:

<http://www.uoguelph.ca/registrar/calendars/undergraduate/current/>

If you find yourself in difficulty, contact the undergraduate advisor in your program, or the BA Counseling Office: <http://www.uoguelph.ca/baco/contact.shtml>

Tentative Schedule

September

Note: All readings can be found in Culver, unless otherwise indicated.

11. Discuss syllabus
14. What is Philosophy of Law?/St. Thomas Aquinas, *Summa theologica*, qq. 90-91 (31-46)
16. Aquinas, cont.
18. Aquinas, cont.
21. Aquinas, cont.
23. Thomas Hobbes, "The Social Contract," (Courselink Reading)
25. Catharine Mackinnon, "Not a Moral Issue" (Courselink Reading)¹
28. Thomas Hobbes, cont.
30. John Austin, *The Province of Jurisprudence Determined* (81-96).

October

02. Austin, cont.
05. Quiz 1 on September material
07. H.L.A. Hart, "Positivism and the Separation of Law and Morals," (96-120).
09. Hart, cont.
12. Thanksgiving Holiday - No Class
14. Peter Singer, "Equality, Race and Gender," (Courselink Reading)
16. Patricia Smith, "Feminist Jurisprudence and the Nature of Law," (218-227)
19. John Stuart Mill, *On Liberty* (258-271).
21. John Stuart Mill, cont
23. Gerald Dworkin, "Paternalism," (271-282).
26. Patrick Devlin, "Morals and the Criminal Law," (283-298).
28. Patrick Devlin cont.
30. H.L.A. Hart, *Law, Liberty and Morality* (298-306).

November

02. Quiz 2 on October material
04. Aristotle, "Voluntary Action and Responsibility," (Courselink Reading).
06. H.L.A. Hart, "Postscript: Responsibility and Retribution," (317-328).

¹ The Teaching Assistant for the Course, Mr. Bryan Richard, who is a PhD student in the Department of Philosophy, will give the lecture on this reading. I am away from Guelph that day, attending an academic conference.

- 09. Immanuel Kant, "The Right to Punish: Retributivism," (Courselink Reading)
- 11. Jeffrey Reiman, "Justice, Civilization and the Death Penalty," (Courselink Reading)
- 13. Glover, "Utilitarianism and Punishment," (Courselink Reading)
- 16. Glover, cont.
- 18. Video on Justice²
- 20. R.A. Duff, "Choice, Character, and Action," (328-346).
- 23. Duff, cont.
- 25. Richard Wasserstrom, "Strict Liability in the Criminal Law," (Courselink Reading)
- 27. Hugo Grotius, "Prolegomena," from *De Jure Belli ac Pacis* (369-379).
- 30. Grotius cont.

December

- 02. Quiz 3 on November material
- 04. Course Wrap-Up/Graded Papers Returned

Important Dates

- Oct 05:** Quiz 1
- Nov 02:** Quiz 2
- Nov 06:** Last day to drop one-semester courses
- Nov 04:** Paper topic to be distributed in class
- Nov 18:** Term Papers to be submitted in class
- Dec 02:** Quiz 3

² Since I will be away on this day, acting as the external examiner for a Ph.D. defense at the University of Toronto, a video on the Foundations of Justice will be screened.