



DEPARTMENT OF PHILOSOPHY  
PHIL\*3040-01 PHILOSOPHY OF LAW  
FALL 2014, MON., WED., FRI. 9:30-10:20

### COURSE OUTLINE

(Please read the outline carefully and hold on to it for future reference)

**Dr. Omid Payrow Shabani**

**Office: McKinnon 327, Phone X: 53201**

**Office Hours: Mon. & Wed. 10:30-11:30**

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#### **Course Description:**

What is law? What is the source of its binding power? In what way law is different from morality and politics? In what way is it similar? And other similar questions will be the focus of the course. The course is an introductory discourse on law, its theoretical underpinnings and its practical applications. We will consider various responses to the aforementioned questions from different schools of legal philosophy. The aim of the course is to familiarize the students with the historical and theoretical foundation of the concepts that ground the legal system in North America, in general, and in Canada in particular.

#### **Objectives:**

By the end of the course students:

- \*should have a good grasp of the history and development of major legal concepts and theories.
- \*should have a good understanding of the nature, validity and scope of the law.
- \*should be able to critically analyze legal arguments in our contemporary controversies and assess their merit.

#### **Text Book:**

*Classic Readings and Canadian Cases in the Philosophy of Law*, Edited by Susan Dimock (Prentice Hall, 2002). Please pay attention when buying the book as the version we are going to use is the 2002 edition and not the latest version. **Students are responsible for both the lecture material and the material in the textbook. The textbook is an important part of the activities for the participation assignment. Not having the textbook may result in poor participation mark.**

**Suggested Reading:**

Raymond Wacks, *Philosophy of Law: A Very Short Introduction*, Oxford University Press, 2006.

**Evaluation:**

- |                                |     |
|--------------------------------|-----|
| 1) Four short tests each worth | 15% |
| 2) Participation assignment    | 10% |
| 3) Final paper                 | 30% |

## Description of the assignments:

- 1) Four short quizzes made up of 5 to 6 questions. Each test is worth 15%, totaling 60% of the final mark.
- 2) The participation mark is based on activities designed around four court cases that will be discussed on Oct. 1<sup>st</sup>, Oct 27<sup>th</sup>, Nov. 17<sup>th</sup>, and Nov. 26<sup>th</sup>. Students ought to read each case before coming to class. In the first ten minutes, I will give a brief outline of the case, divide the class into groups and pose a question about the case. The next half an hour, groups are asked to discuss the case with the aim of formulating an answer to the question I posed. The last ten minutes are spent by each student on writing the answer their group came up with on a sheet of paper that I have distributed at the beginning of the class. They should write their name, student number and their group number on the sheet—**not having this information might impact your mark**. Each group collects all the answer sheets and hand them to me at the end of the class. Each participation is worth 2.5 marks for the total of 10%. There will be six occasion to gain this portion of your final mark as listed on the class schedule in this outline.  
**Not having your textbook for this exercise impacts your participation mark. This is an in class assignment. If you are not there I cannot give you a make-up.**
- 3) A final take-home exam in the form of essay question worth 30% of your final grade, and due on Dec. 4<sup>th</sup>. (an essay topic, details and description of the essay and its evaluation scheme will be posted on the courselink in early November)

**Other Rules:**

- Late assignments or make up exams will be allowed only after an official certification either from a doctor or your program counselor is provided;** otherwise a mark of zero will be entered for the assignment. (See the Addendum to Course Outline at the end of syllabus)
- Request for extension on the take-home exam will be accommodated with proper documentation (e.g., doctor's note).
- My email is mainly to be used for setting up appointments when you have a conflict with the office hours, or for emergencies to let me know that you can't make a test so that I can arrange for a make-up test. The email is not to be used to ask me what is on the next test, or what we'll be reading next class, or similar questions whose answers are provided either in the outline or in class.
- There is a **two week** window after the tests are returned to you to contest your mark.
- **Laptops are allowed only for class purposes; transgressors will be asked to leave the class.**
- Cell Phones should be turned off (no texting in class); transgressors will be asked to leave the class.**

**-No recording (audio or visual) without the expressed consent of the instructor.**

## **CLASS SCHEDULE**

Friday, Sep. 5: Introduction

### **Week I**

Mon., Sep. 8: Summa Theologica (Thomas Aquinas)

Wed., Sep. 10: Summa Theologica Continued

Fri., Sep. 12: "The Command Theory of Law" (John Austin)

### **Week II**

Mon., Sep 15: "The Command Theory of Law", continued

Wed., Sep 17: *R. v. City of Sault Ste. Marie, p.160 (participation mark)*

Fri., Sep 19: Law as Systematized Predication of What the Court Will Do (Oliver Holmes)

### **Week III**

Mon., Sep 22: Holmes, continued

Wed., Sep 24: **FIRST TEST**

Fri., Sep 26: Law as the Product of Court Decisions (Jerome Frank)

### **Week IV**

Mon., Sep. 29: Frank Continued

Wed., Oct 1: *Norberg v. Wynrib, p.284 (participation mark)*

Fri., Oct 3: Law and Economics, Susan Dimock

### **Week V**

Mon., Oct 6: Dimock, continued

Wed., Oct 8: Law as the Union of Primary and Secondary Rules (H.L.A. Hart)

Fri., Oct 10: Hart, continued

### **Week VI**

Mon., Oct 13: **THANKS GIVING, NO CLASSES SCHEDULED**

Wed., Oct 15: **SECOND TEST**

Fri., Oct 17: Law as a Patriarchal Institution (Patricia Smith)

### **Week VII**

Mon., Oct 20: Smith continued

Wed., Oct 22: Law as Male Power (Catharine MacKinnon)

Fri., Oct 24: MacKinnon, continued

### **Week VIII**

Mon., Oct 27: *R. v. Lavallee, p. 167 (participation mark)*

Wed., Oct. 29: Positivism and the Separation of Law and Morals (Hart)

Fri., Nov 31: Hart, continued

### **Week IX**

Mon., Nov 3: Positivism and Fidelity to Law (Fuller)

Wed., Nov 5: **THIRD TEST**

Fri., Nov 7: The Morality that Makes Law Possible (Fuller)

### **Week X**

Mon., Nov 10: Rules, Principles and Rights (Dworkin)

Wed., Nov 12: Dworkin, continued

Fri., Nov 14: “Hard Cases,” and “Integrity in Law” (Dworkin)

### **Week XI**

Mon., Nov 17: *R. v. Oak*, p. 275 (*participation mark*)

Wed., Nov 19: On Liberty (John Stuart Mill)

Fri., Nov 21: The Enforcement of Morals (Patrick Devlin)

### **Week XII**

Mon., Nov 24: On Paternalism (Gerald Dworkin)

Wed., Nov 26: *R. v. Big M Drug Mart Ltd*, p. 367 (*participation mark*)

Fri., Nov. 28: Make-up Class for Mon. Oct. 8<sup>th</sup>: **FORTH TEST**

**Wed., Dec. 4th: Take-home exams are due.** I will be in my office until noon collecting hard copy of your essays—**no electronic submission is acceptable unless permission is granted.** After this date your essay will be late and it will incur three marks penalty per day. (Please note that the main office in the philosophy department will not accept your essays. Do not drop your paper under my office door as it might be picked up by the house keeping staff and I won't be responsible for it).

## **8 Standard Statements of the College of Arts, Fall 2014**

### **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 2014 courses, without academic penalty, is **Friday October 31**. 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 that involve, 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 Counselling Office: <http://www.uoguelph.ca/baco/contact.shtml>