



DEPARTMENT OF PHILOSOPHY
PHIL*3040-01 PHILOSOPHY OF LAW
FALL 2013, 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: 53201

Office Hours: Wed.& Fri. 10:30-11:30

e.mail: oshabani@uoguelph.ca

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.**

Suggested Reading:

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

Evaluation:

There are three assignments for this course:

- 1) Four short quizzes each 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 Sep. 20th, Oct. 4rd, Oct. 30th and Nov. 20th. 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. 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%.
- 3) A final take-home exam in the form of essay question worth 30% of your final grade, and due on Dec. 5st. (an essay topic, details and description of the essay and its evaluation scheme will be posted on the courselink in early November)

Other Rules:

Students should have their textbook with them in every class. If I ask a student to produce his textbook and he fail to do so, for every such instance he will lose 1%.

-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 each assignment when you can contest your mark. The TAs will hold office hours on the two weeks following the test to answer your questions.**

-Laptops are not allowed in class.

-Cell Phones should be turned off (no texting in class). If you ignore this rule, you'll be asked to leave the class room.

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

CLASS SCHEDULE

Week I

Mon., Sep. 9: Introduction

Wed., Sep. 11: Summa Theologica (Thomas Aquinas)

Fri., Sep. 13: Summa Theologica Continued

Week II

Mon., Sep 16: “The Command Theory of Law” (John Austin)

Wed., Sep 18: “The Command Theory of Law”, continued

Fri., Sep 20: *R. v. City of Sault Ste. Marie, p.160 (participation mark)*

Week III

Mon., Sep 23: Law as Systematized Predication of What the Court Will Do (Oliver Holmes)

Wed., Sep 24: Holmes, continued

Fri., Sep 26: **FIRST TEST**

Week IV

Mon., Sep. 30: Law as the Product of Court Decisions (Jerome Frank)

Wed., Oct 2: Frank Continued

Fri., Oct 4: *Norberg v. Wynrib, p.284 (participation mark)*

Week V

Mon., Oct 7: Law and Economics, Susan Dimock

Wed., Oct 9: Dimock, continued

Fri., Oct 11: Law as the Union of Primary and Secondary Rules (H.L.A. Hart)

Week VI

Mon., Oct 14: **THANKS GIVING, NO CLASSES SCHEDULED**

Wed., Oct 16: Hart, continued

Fri., Oct 18: **SECOND TEST**

Week VII

Mon., Oct 21: Law as a Patriarchal Institution (Patricia Smith)

Wed., Oct 23: Smith continued

Fri., Oct 25: Law as Male Power (Catharine MacKinnon)

Week VIII

Mon., Oct 28: MacKinnon, continued

Wed., Oct. 30: *R. v. Lavallee, p. 167 (participation mark)*

Fri., Nov 1: Positivism and the Separation of Law and Morals (Hart)

Week IX

Mon., Nov 4: Hart, continued

Wed., Nov 6: Positivism and Fidelity to Law (Fuller)

Fri., Nov 8: **THIRD TEST**

Week X

Mon., Nov 11: The Morality that Makes Law Possible (Fuller)

Wed., Nov 13: Rules, Principles and Rights (Dworkin)

Fri., Nov 15: Dworkin, continued

Week XI

Mon., Nov 18: “Hard Cases,” and “Integrity in Law” (Dworkin)

Wed., Nov 20: *R. v. Oak*, p. 275 (*participation mark*)

Fri., Nov 22: On Liberty (John Stuart Mill)

Week XII

Mon., Nov 25: The Enforcement of Morals (Patrick Devlin)

Wed., Nov 27: On Paternalism (Gerald Dworkin)

Thu., Nov. 29: Make-up Class for Mon. Oct. 8th: **FORTH TEST**

Wed., Dec. 5: Take-home exams are due. I will be in my office until noon collecting the essays. After this date your essay will be late and for each day it is late five marks (out of thirty) will be deducted. (Please note that the main office in the philosophy department will not accept your essays). Also, make sure not to drop your paper under my office door as it might be picked up by the house keeping staff.

8 Standard Statements of the College of Arts, FALL 2013

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 2013 courses, without academic penalty, is **Thursday 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>