

UNIVERSITY OF GUELPH
DEPARTMENT OF PHILOSOPHY
PHIL 3040 Philosophy of Law / Fall 2010

Instructor: Daniel Harris
Office: Mackinnon 361
Email: dharri03@uoguelph.ca

Class Time and Location: Tuesdays & Thursdays 1:00pm – 2:20pm MACK 117

Office hours: Tuesdays 11:00am – 1pm & by appointment

Brief Description of Course: The goal of this course is to examine central areas in the philosophical study of law. We will survey theories of what law is, such as natural law theory and legal positivism, and look at important criticisms of legal theory from feminism and critical legal studies. We will examine rights, what they are and the role of the law in determining and upholding them, and we will study theories of justice, that is theories about how a state ought to be organized in order to allow for the best sort of life for its citizens, and what role law has to play in these theories. Competing theories about the proper scope and purpose of punishment will also be considered.

Method of Evaluation:

(1) Reading Questions, 5 x 5% = 25%

Five assignments, each about a page double-spaced.

(2) Midterm Paper, 30%

Due October 21, 1500 words or five double-spaced pages.

(3) Final Paper Proposal, 5%

Due November 25, 200 – 300 words or about a page

(4) Final Paper, 40%

Due Monday December 6, 2500 words or seven to eight double-spaced pages.

Reading Questions: Five times over the course of the semester, students will hand in answers to two questions found in the textbook at the end of the assigned readings or on courselink for online readings. Students can choose which two questions to answer, and on which dates to hand in answers as long as they hand in a total of five assignments. Each answer should be about half a page, double spaced, so each assignment of two questions should be about a page in length.

Papers. Each student will write two papers. I will suggest topics but students may also choose their own topics. The mid-term paper need not consult any outside sources but may; the final paper must cite at least two outside sources such as books or journal articles. **Late papers will lose 5% per day including weekends.**

Paper Proposal. For the final paper only, students must submit an essay proposal. This should be a brief presentation of what the student plans to write about, with a clear thesis statement and bibliographic information for the outside sources the student will use.

Required Texts: Schauer, Frederick and Walter Sinnott-Armstrong, eds. *The Philosophy of Law: Classic and Contemporary Readings with Commentary*. ISBN-13: 978-0-19-515512-9

Schedule of Classes and Readings:

Introduction	09/09
Theories of Law	09/14: Natural Law: Introduction 8-11; Aquinas 12-14 09/16: Legal Positivism: Hart 40-49 09/21: Law as Integrity: Dworkin 90-100
Criticisms	09/23: Feminist critics: MacKinnon 09/28: Critical Legal Studies: Kennedy 62-69
Legal Reasoning	09/30 Bork 132-136; Brest 137-141 10/05 Dworkin 142-149
Theories of Justice	10/07: Mill 508-517 10/12: Rawls 518-529 10/14: Nozick & Sandel 530-540
Rights	10/19: Feinberg 289-294; Dworkin 295-298; Thomson 299-304; Craig v. Boren 304-306 10/21: Mid-term paper due. Harm Principle & Paternalism: Mill 310-313; Mill 328-331; Dworkin 331-337 10/26: Free Speech: Mill 356-361; Pornography: MacKinnon 376-379; Dworkin 383-388
Criticisms	10/28: Arendt, 'Perplexities' 11/02: Agamben, 'Politicization' 11/04: Agamben, 'Camp as Nomos'
Moral Force of Law	11/09: Plato, 'Crito' 11/11: Thoreau, 'Civil Disobedience' 11/16: Rawls 259-266; Singer 267-274
Criticisms	11/18: Foucault, 'Eye of Power' 11/23: Foucault, 'Clarifications'
Punishment	11/25: Final Paper Proposal due. Utilitarianism: Bentham 673-682; Rawls 683-689 11/30: Retributivisms: Kant 701-704; Davis 705-715

SEVEN STANDARD STATEMENTS

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 2010 courses, without academic penalty, is **Thursday November 4**. 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.

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/>