

PHL 271 – Ethics and Law
Winter 2015

Instructor: Dr. Charles Repp, charles.repp@utoronto.ca

Meetings: Mon 3-4, Wed 3-5, Davis Bldg 2074

Office Location & Hours: Academic Annex, Office 206, Wed 5-6 or by appointment

Course Description

This course will be an introduction to some basic topics in the Philosophy of Law, with a particular focus on the relation between law and morality. During the first half of the course, we will look at some different theories about the nature of law and what they imply about (for example) whether laws, to count as such, must conform to accepted moral principles, and whether judges should take morality into account when interpreting laws. We will also consider whether the bare fact that a law is a law gives us any moral obligation to obey it. During the second half of the course, we will ask whether the state is justified in restricting freedom beyond what is necessary to keep citizens from harming each other. We will examine arguments on both sides of the issue and see how these arguments play out in the debate over pornography. Finally, we will take up the question: what justifies the state in punishing criminals? Do criminals *deserve* to be punished, or does the rationale for state punishment lie in its effects—for example, deterrence or rehabilitation?

Textbook

There is no required textbook for this course. All readings will be made available on Blackboard.

Evaluation

1. In-Class Group Exercises (20%). For each exercise, you will be divided into groups of 10-15 and given a list of questions to discuss and answer as a group. Each group will submit one set of written answers to the questions via email. The exercises will usually be based on short readings, which will be posted on Blackboard in advance. There will be four in-class exercises before the midterm, the dates of which are already indicated on the schedule of assignments below. You can expect approximately the same number after the midterm, the dates for which I will announce in due time. At the end of the term, I will drop your lowest group exercise mark and average the rest.

2. Midterm Test (40%). Will be held **in class on February 11**. Format: essay-style, closed-book. A list of sample questions will be posted prior to the exam. Midterm will cover Units I and II.

3. Final Exam (40%) Date, time, and location to be announced by the Registrar. Same format as midterm. Final exam will cover Units III and IV.

Missed Assignments

In-Class Group Exercises: There will be no make-up opportunities for missed in-class group exercises. However, at the end of term, your lowest in-class exercise grade will be dropped.

Midterm Test: Students who miss the midterm test for reasons entirely beyond their control may submit to me a written request for special consideration, explaining the reason for missing the test and attaching appropriate documentation (e.g. Verification of Student Illness or Injury form) or a note from the Office of the Registrar. Students whose requests are accepted will be allowed to take a make-up test during Reading Week.

Teaching Assistant

This course has a teaching assistant (TA), who will be marking your midterm test and final exam. The TA will hold office hours after the midterm is returned to answer questions. The TA will not be available to answer questions by email.

Office Hours

I will hold office hours in my office (Academic Annex 206) on Wednesdays 5-6. Please feel free to drop in during this time to talk with me about any material or assignments related to this course. (Exception: if you miss a class, please do not come to my office hours expecting to get a make-up lecture. It is your responsibility to get the notes for any lectures you miss.) If you would like to talk but cannot make it to my office hours, please email me and I'll be happy to try to set up another time.

Email Policy

If you have a substantive question about course material (with the exception noted above about notes for missed classes), please come see me during my office hours. If you have a quick administrative question, feel free to email me or about it, but before doing so, please check all announcements and documents on Blackboard to make sure that the answer isn't already there.

Use of Electronic Devices

Always turn off and put away your cell phones when you enter class. Texting or playing games on your phone during class is not only disrespectful towards me; more importantly, it also detracts from the quality of the learning environment both for you and your classmates. I also strongly discourage you from using a laptop during lecture. Several studies have shown that students who use laptops to take notes do a worse job of understanding and retaining the material than those who take notes by hand. Some of the relevant literature is summarized here:

<http://www.newyorker.com/tech/elements/the-case-for-banning-laptops-in-the-classroom>

Please read this before using your laptop. If you decide to use your laptop anyway, I would ask that you please sit in the back of the lecture hall so as not to distract others.

Course Website

I will use the Blackboard site for this course to post readings, announcements, and grades. You are responsible for checking this site regularly. To access it, go to <http://portal.utoronto.ca> and log in using your UTORid and password. Once you have logged in, look for the “My Courses” module, where you’ll find a link to PHL 271.

Accessibility Needs

The University of Toronto is committed to accessibility. If you require accommodations or have any accessibility concerns, please visit <http://studentlife.utoronto.ca/accessibility> as soon as possible.

***Tentative* Schedule of Topics & Assignments**

Readings are to be completed before coming to class.

Jan 5: Course Introduction

I. NATURE AND SOURCES OF LAW

Jan 7: H.L.A. Hart, “Positivism and the Separation of Law and Morals”

Jan 12: Lon L. Fuller, “Positivism and Fidelity to Law – A Reply to Professor Hart,” Intro, Section V, Section VII

Jan 14: Hart-Fuller Debate Cont’d; In-Class Group Exercise: *Riggs v. Palmer*

Jan 19: Ronald Dworkin, “Law’s Ambitions for Itself”

Jan 21: Dworkin cont’d; In-Class Group Exercise: *Billy Budd*

II. THE MORAL FORCE OF LAW

Jan 26: M.B.E. Smith, “Is There a Prima Facie Obligation to Obey the Law?”

Jan 28: Plato, *Crito*; In-Class Group Exercise: *Crito*

Feb 2: John Rawls, “The Justification of Civil Disobedience”

Feb 4: Peter Singer, “Disobedience as a Plea for Reconsideration”; In-Class Group Exercise: *Walker v. Birmingham*

Feb 9: Midterm Review

Feb 11: Test on Units I-II

[Feb 16, 18: NO CLASS - READING WEEK]

III. LIMITS OF LAW

Feb 23, 25: The Harm Principle; Mill, *On Liberty*

Mar 2, 4: Support for Paternalism; Possible Readings: Joel Feinberg, “Legal Paternalism”; Robert Goodin, “Permissible Paternalism”

Mar 9, 11: Liberal Defenses of Pornography; Possible Readings: Ronald Dworkin, “Do We Have a Right to Pornography?”; Joel Feinberg, “Pornography and the Criminal Law”

Mar 16, 18: Feminist Arguments against Pornography; Catherine MacKinnon, “Pornography, Civil Rights and Speech”

IV. PUNISHMENT

Mar 23, 25, 30, Apr 1: Theories of Punishment; K.G. Armstrong, “The Retributivist Hits Back”; A. Ellis, “A Deterrence Theory of Punishment”; Jean Hampton, “The Moral Education Theory of Punishment”; In-Class Group Exercise: *A Clockwork Orange*

FINAL EXAM (Date TBA)