

PHIL-280: Morality and Law.

Summer Session 1 2015
John Lawless, Caldwell Hall 210B
lawlessj@live.unc.edu

Course description. In this course we will explore some of the ways in which justice and morality relate to the idea and interpretation of law. We'll explore questions about the concept of law, the rule of law, and the various principles to which judges should appeal in making sense of hard legal cases. The course will require students to engage critically with theories of jurisprudence, to hone their critical thinking skills more broadly, and to demonstrate these competencies both orally and in writing. Students considering law school will be especially well-served, though an interest in pursuing law after college is neither required nor assumed.

Course requirements. It is essential that you keep up with the readings, attend each class, and participate actively in class discussions. You must complete each assignment in a timely fashion. In order to pass the course, you must at least satisfy each of these requirements.

In-class writing assignments (worth a total of 20% of the final grade). Almost every day, students will be asked to write a brief response to the readings and, at several points through the session, to meet with me to discuss these short assignments. Ten of these assignments will be graded on quality; I will leave it up to the student to decide which ten. The rest will be graded only on having been completed.

Participation. (20%). Participation will be a central element in this course. Every day, one student will be asked to present an issue from the assigned reading that she found particularly intriguing, and to suggest to the class ways in which we might develop or critique the available interpretations of the issue. Students will be expected to engage with one another respectfully and to actively assess the readings.

Two papers (20% and 30%, respectively). I will assign prompts two weeks in advance of the due date.

Final (10%). The exam will consist of short answers and of one short essay.

Attendance. Each student gets one free absence per session. Beyond that, you must speak to me about any absence, preferably beforehand. Be aware that I will be unlikely to excuse any absence that the university does not require me to excuse. For each unexcused absence, you will be docked 3 points off of your final grade. For each failure to speak with me, you will lose an *extra* 2 points off of your final grade.

The Honor System. The University of North Carolina at Chapel Hill has had a student-led honor system for over 100 years. Academic integrity is at the heart of Carolina and we all are responsible for upholding the ideals of honor and integrity. The student-led Honor System is responsible for adjudicating any suspected violations of the Honor Code and all suspected instances of academic dishonesty will be reported to the honor system. Information, including your responsibilities as a student is outlined in the Instrument of Student Judicial Governance. Your full participation and observance of the Honor Code is expected.

Required texts. You must have available a copy of John Arthur and William H. Shaw's *Readings in the Philosophy of Law*. All other texts will be posted to the course site.

Tentative Schedule

Introduction. Law's Moral Aspirations

- May 14* Martin Luther King, Jr., "Letter from a Birmingham Jail" (S)
May 15 Plato, "Crito" (S)

First Track. Justice

Unit 1. Preliminaries

- May 16* John Stuart Mill, "Utilitarianism" (S)
May 17 Joel Feinberg, "The Nature and Value of Rights" (S)

Unit 3. Property

- May 20* John Locke, "Property" (RPL)
Morris Raphael Cohen, "Property and Sovereignty" (RPL)
May 21 Palsgraf v. The Long Island Railroad Co. (S)
Summers v. Tice (S)
Sindell v. Abbott Laboratories (S)
John Gardner, "Obligations and Outcomes in the Law of Torts" (S)

Unit 4. Liberty

- May 22* John Stuart Mill, "On Liberty" (RPL)
Griswold v. Connecticut (RPL)
Lawrence v. Texas (RPL)
May 23 Jeremy Waldron, "Homelessness and the Issue of Freedom" (S)
May 24 Waldron, "Homelessness and the Issue of Freedom" (S)
May 27 *Memorial Day.*

Unit 5. Equality

- May 28* Plessy v. Ferguson (RPL)
Brown v. Board of Education (RPL)
Ronald Dworkin, "Racial Equality and Affirmative Action" (RPL)
May 29 Thomas E. Hill, Jr., "The Message of Affirmative Action" (S)

Unit 6. Punishment

- May 30* Richard B. Brandt, "The Utilitarian Theory of Criminal Punishment" (RPL)
Herbert Morris, "Persons and Punishment" (RPL)
May 31 Jean Hampton, "The Moral Education Theory of Punishment" (RPL)

Second Track. Legal Reasoning and the Concept of Law

Unit 7. Preliminaries

- June 3* Sanford Levison, "On Interpretation: The Adultery Clause of the Ten Commandments" (RPL)
Edward Levi, "A Case Study in Interpretation: The Mann Act" (RPL)
Cases Interpreting the Mann Act (RPL)

Unit 8. The Concept of Law

- June 4* H. L. A. Hart, "Positivism and the Separation of Law and Morals" (RPL)
June 5 Ronald Dworkin, "The Model of Rules" (RPL)
Ronald Dworkin, "Integrity in Law" (S)
Riggs v. Palmer (RPL)

Unit 9. Legal Interpretation

- June 6* C. Gordon Post: "Stare Decisis: The Use of Precedent" (RPL)
Joseph Raz, "Precedent" (S)
Planned Parenthood v. Casey
June 7 Ronald Dworkin, "'Vague' Constitutional Clauses" (RPL)
Antonin Scalia, "Interpreting the Constitution" (RPL)
Ronald Dworkin, "A Response to Scalia" (RPL)
District of Columbia v. Heller (RPL)

Unit 10. The Rule of Law

- June 10* Lon Fuller, "Eight Ways to Fail to Make Law" (RPL)
H. L. A. Hart, "Grudge Informers and the Rule of Law" (RPL)
June 11 Lon Fuller, "The Problem of the Grudge Informer" (RPL)
G. J. Postema, "Fuller on the Internal Morality of Law" (S)
June 12 Jeremy Waldron, "Does Law Promise Justice?" (S)
June 13 David Dyzenhaus, "The Case of Bram Fischer" (S)