

PHL271: Ethics and the Law

University of Toronto

Summer 2016

Course Instructor:

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Office Hours and Location: MW5–6 in Academic Annex 123

Course Description

This course explores a series of questions about the relationship between law and morality. Is there a necessary connection between law and morality? Should a legal system respect or value freedom? And what is the relationship between legal punishment and moral desert? We'll investigate these and related questions by reading both philosophical work and relevant case law.

Course Reading

Weekly readings will sometimes be made available on Blackboard, and lecture handouts will be distributed in class. Students should also acquire the following texts (I've had the campus bookstore order copies):

- Dyzenhaus, Moreau, and Ripstein (eds.). *Law and Morality: Readings in Legal Philosophy*. 3rd Edition. University of Toronto Press, 2007.
- Dworkin, Ronald. *Law's Empire*. Belknap Press, 1988.
- Hart, H. L. A. *The Concept of Law*. 3rd Edition. Oxford University Press, 2012.

Evaluation

Grading: I adhere to a blind grading policy. So when you submit your assignments, please only include your student number.

1. Short Papers: 60%. Due: May 21st; June 4th; June 18th.

- *Instructions:* You will write **three** short papers. I'll send out a list of topics, along with more detailed instructions, well before each paper is due. The papers must be no longer than 600 words. Your TA has been instructed to penalize anyone who goes over the word limit. Submit these papers on Blackboard before 11:59 p.m. (EDT) on the due date. *NOTE:* all papers must be submitted in .doc format.
- *Grading Scheme:* While you will receive a grade for every paper, only the *highest two* grades will count. *Caveat:* if you submit fewer than three papers, I will weight the average of your N paper grades as $N \times 20\%$ rather than 60% of your final grade. The same will happen if you submit all three papers, but receive a failing grade on one or more of them. So submit and pass all three papers.

2. Final Exam: 35%. Date: TBA

3. Participation: 5%

Course Schedule

1. Course Introduction and Background

2. Legal Positivism (2 Classes)

Reading: Thomas Hobbes *Leviathan* (Chs. 5, 13, 25, 26); H. L. A. Hart *The Concept of Law* (Chs. 5, 6, and 9) and ‘Positivism and the Separation of Law and Morals’; *Riggs v Palmer* [1889]

3. Anti-Positivism and Legal Interpretation (2 Classes)

Reading: Lon Fuller *The Morality of Law* (selections) and ‘Positivism and Fidelity to Law – A Reply to Professor Hart’; Ronald Dworkin ‘Law’s Ambitions for Itself’ and *Law’s Empire* (selections)

Optional: Endicott ‘Legal Interpretation’; Raz ‘On the Nature of Law’

4. Liberty, Harm, and the Limits of the Law (2 Classes)

Reading: J. S. Mill *On Liberty*; Isaiah Berlin ‘Two Concepts of Liberty’; Ronald Dworkin ‘Liberty and Moralism’; Lord Devlin ‘Morals and the Criminal Law’; Martha Nussbaum *Sex and Social Justice* (selections)

5. Punishment and Desert (2 Classes)

Reading: *R v. McGill* [2016]; *R v Gladue* [1999]; Larry Laudan *Truth, Error and Criminal Law* (selections)

Optional: *R v Ipeelee* [2012]; *R v Wells* [2000]; Antony Duff ‘Legal Punishment’

6. Hard Cases: Abortion and Euthanasia (2 Classes)

Reading: Judith J. Thomson ‘A Defense of Abortion’; J. David Velleman ‘A Right to Self-Termination?’

7. Review

Course Business

1. *Plagiarism and Academic Misconduct.* The University of Toronto takes plagiarism (and academic misconduct more generally) very seriously. For a complete statement of the policies governing academic conduct, see the University’s *Code of Behaviour on Academic Matters*. You are responsible for knowing what plagiarism is, and also for knowing the particular plagiarism penalties. Plagiarism includes (but is not limited to) the use of a thinker’s ideas or words without proper citation; the purchase of assignments; the use of internet resources without proper citation; and the submission of work written (in whole or in part) by another. Penalties for plagiarism range from a zero on the assignment to suspension from the University of Toronto. Furthermore, TAs in the Philosophy Department are known to be excellent detectors of plagiarism: *if you cheat, we will catch you*. So don’t do it.
2. *How to Avoid Plagiarising.* Most students plagiarise because they believe themselves to be without options. But no student will ever be without options in this course. If you find yourself in trouble, and tempted to cheat, contact me *immediately*. If you haven’t *yet* cheated, a solution can always be found. In addition, the University of Toronto provides a host of resources designed to help students in academic need. Students who wish to talk to someone may also contact the University’s Counselling & Psychological Services (CAPS).

3. *Late Penalties.* This will be a challenging and fast-paced course. It is highly recommended that you attend every class meeting and get your work in on time. Late penalties on assigned work are set at 1/3 of a letter grade per day, to a maximum of three days (this includes weekends/holidays), unless accompanied by a documented medical explanation or due to a family emergency. Any work outstanding beyond this point will receive a grade of 0.
4. *Your Course Contact.* I am your primary contact for this course. You must use your 'utoronto' email account if you need to correspond with me. Course-related emails MUST have "PHL271" somewhere in the subject line. I will not answer emails that ask for information readily available on either Blackboard or the course syllabus, so it is always a good idea to begin by checking those two places. I will also not answer emails that ask for information easily obtainable through regular class attendance. Lastly, I will not answer emails that ask substantive philosophical questions—those with such questions should bring them to my office hours. I will respond to all other emails within two working days.
5. *Special Accommodations.* I am happy to assist with special accommodations for students registered with accessibility services. If you are registered with accessibility services, please don't hesitate to have your accessibility services representative get in touch with me. I'm also prepared to accommodate student needs that fall outside the usual scope of accessibility services.