

Philosophy of Law

PHL 230 AB1

Fall 2016

Monday 10am - 12:50pm | Room: D213

INSTRUCTOR: Daniel Hooley | Dan.Hooley@ufv.ca | Office location: D3012 | Office Hours: Tuesday 1-2pm, please make appointment by email beforehand.

COURSE DESCRIPTION:

This course examines a number of philosophical issues relating to the law. In the first part of the course, we will look at the relationship between law and morality. Here we look at a few different questions. Can the law legitimately uphold our moral views, even when certain acts or behavior do not harm others? Or are criminal sanctions legitimate only when applied to acts that involve harm? Related to this, laws can be seen as limiting our freedom, but how should we understand our freedom in the first place? In the second part of the course, we expand on these debates by turning to specific issues where the law is sometimes understood to uphold certain moral views: assisted death, pornography, hate speech, and sex work. Here we will look at philosophical work on this subject, as well as important Supreme Court cases in Canada and the U.S. The last part of the course turns to the nature of the law. Here we will look at whether or not there is any necessary connection between the law and morality.

REQUIRED TEXTS

- ❑ *Law and Morality: Readings in Legal Philosophy* (eds Dyzenhaus, Moreau, Ripstein)
- ❑ All of the other readings for the course will be posted on Blackboard.

LEARNING OBJECTIVES

Upon successful completion of this course, you should expect to gain some understanding of several core debates in the philosophy of law. You can also expect to have a much clearer sense of how philosophical questions are approached by philosophers. Related to this, another central learning objective for this course is improving your critical thinking skills. Upon successful completion of this course you should be able to:

- Engage in critical reflection on arguments
- Assess primary and secondary sources in philosophy
- Recognize ambiguous or unclear claims and restate premises and conclusions in a clearer and more precise fashion
- Develop responses to philosophical positions
- Develop good arguments
- Evaluate diverse approaches to problem solving
- Write a clear, well-organized, and well-supported philosophical essay

COURSE REQUIREMENTS:

- Class Participation (10%)
- Essay 1 (15%)
- Essay 2 (15%)
- Midterm (15%)
- Final Essay (20%)
- Final Exam (25%)

GRADE SCALE

<i>Grade</i>	<i>Percentage Equivalent</i>	<i>Grade point value</i>
A+	90-100	4.33
A	85-89	4.0
A-	80-84	3.67
B+	77-79	3.33
B	73-76	3.0
B-	70-72	2.67
C+	67-69	2.33
C	63-66	2.0
C-	60-62	1.67
D	50-59	1.0
F	<50	0.0

IMPORTANT DATES

Essay 1	October 3rd
Midterm	October 31st
Essay 2	November 21st
Final Essay	December 5th
Final Exam	TBA

COURSE SCHEDULE

*The schedule and selection of readings are tentative and may be changed or modified during the course.

SEPTEMBER 12th: Introduction

- No required readings.

Section 1: The Limits of Law

SEPTEMBER 19th: Law and Common Morality

- ❑ Patrick Devlin, “Moral and Criminal Law” (24)
- ❑ *Bowers v Hardwick* (3)

SEPTEMBER 26th: The Harm Principle

- ❑ John Stuart Mill, *On Liberty* (20)
- ❑ Sarah Conly, Chapter 2 in *Against Autonomy* (26)
- ❑ *R v Marmo-Levine* and *R. v Caine* (11)

OCTOBER 3rd: Two Concepts of Liberty

- ❑ Isaiah Berlin, “Two Concepts of Liberty” (17)
- ❑ Sarah Conly, Chapter 6 in *Against Autonomy* (32)

Section 2: Law and Morality - Applied Cases

OCTOBER 17th: Assisted Death

- ❑ Wayne Sumner, Selections from *Assisted Death* (5)
- ❑ *Carter v Canada* (Supreme Court of Canada)
- ❑ Singer / Camosy Debate (youtube)

OCTOBER 24th : Pornography

- ❑ Catharine MacKinnon, *Only Words* (12)
- ❑ Wayne Sumner, *The Hateful and the Obscene* (p.1024-1029; 6)
- ❑ *R. v Butler* (Supreme Court of Canada) (23)

OCTOBER 31st: MIDTERM / Sex Work

- ❑ Kat Banyard, “Prostitution is not Sex Work” (5)
- ❑ Philosopher’s on Prostitution, *Daily Nous* post (10)
- ❑ *Bedford v Canada* (Supreme Court of Canada)

NOVEMBER 7th: Hate Speech

- ❑ Wayne Sumner, *The Hateful and the Obscene* (p.1038-1047; 9)
- ❑ Jeremy Waldron, Chapter 4 in *The Harm of Hate Speech* (p.71-104; 33)
- ❑ *R. v Keegstra* (Supreme Court of Canada)

NOVEMBER 14th: Punishment

- ❑ Joel Feinberg, “The Classic Debate” (5)
- ❑ Jean Hampton, “The Moral Education Theory of Punishment” (30)

Section 3: The Nature of the Law

NOVEMBER 21st: Legal Positivism

- H.L.A. Hart, “Positivism and the Separation of Law and Morals” (25)
- H.L.A. Hart, *The Concept of Law* (12)

NOVEMBER 28th: Law’s Inner Morality

- L.L. Fuller, “Positivism and Fidelity to Law - A Reply to Professor Hart” (41)

DECEMBER 5th: Dworkin’s Views

- Ronald Dworkin, “Law’s Ambitions for Itself” (14)
- Ronald Dworkin, *Law’s Empire* (18)

COURSE POLICIES

LATE PAPERS AND EXAMS: Late papers will not be accepted unless prior arrangements have been made before the assignment is due (at least 1 day prior to the due date), or you have a documented medical or family emergency. No late exams will be given, except in the case of medical or family emergencies.

ACADEMIC MISCONDUCT: I expect that the essays you submit for this class are the product of your own work, and are not plagiarized by other sources. Prior to the first essay we will review how to avoid accidental plagiarism, as well as other forms of academic misconduct. For additional information on plagiarism, see: <http://libguides.ufv.ca/Plagiarism>.

ACCESSIBILITY NEEDS: Students with different needs and learning styles are welcome in this course, and any student with a disability will be accommodated. If you have a disability, or need accommodation for specific learning needs, please see me or contact the Disability Resource Center: <https://www.ufv.ca/disabilityservices/>.

EMAIL POLICY: I will do my best to respond to student emails within 24 hours (if it is not the weekend, I will usually respond much sooner than this). I only ask that you make sure the information you are seeking is not available on the course webpage or the syllabus. If your question cannot be easily answered via an email, I will suggest you meet me during one of my office hours, or after class to discuss the matter.

LAPTOPS & PHONES: I want to encourage you all to not use laptops and other techno gadgetry (tablets, phones, etc.) during class. There is [pretty good evidence](#) that students do better in university classes when they take notes by hand. And notes covering the main arguments covered in class will be provided prior to class. I do this so that you don’t have to worry about summarizing the main arguments/ideas we are considering, and can instead focus on

understanding and evaluating the arguments we are considering. If you'd prefer, you can use a laptop or tablet in class, but I ask that you don't use it for purposes other than taking notes.