

Topics in Philosophy of Law Phil 2822G, 2019

CONTACT INFORMATION

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CLASS INFORMATION

Wed: 1:30 – 2:30, Fri: 1:30 – 3:30
Classroom: Wed: HC-W8,
Fri: HCV208
Website: <https://owl.uwo.ca/portal>

COURSE DESCRIPTION

This course is an introduction to number of special topics in legal philosophy, including constitutional rights and democracy, the debate between legal liberalism and legal moralism, the scope and limits of criminal responsibility, and the status of international law.

COURSE LEARNING OUTCOMES

Upon successful completion of this course, students will be able to:

1. Describe philosophical theories framing special topics in philosophy of law.
2. Apply these theories to concrete situations.
3. Discuss competing points of view on issues in philosophy of law.
4. Evaluate conflicting philosophical arguments related to these issues.
5. Formulate well-reasoned solutions to practical dilemmas.
6. Persuade others of a well-reasoned stance or action.
7. Demonstrate effective writing and skillful critical and reflective thinking.

Students may vary in their competency levels on these outcomes. They can expect to achieve these outcomes if they honour course policies, attend classes regularly, complete all assigned work in good faith and on time, and meet all other course expectations of them as students.

ANTIREQUISITE(S)

None. Students wishing to audit the course should consult with the instructor prior to or during the first week of classes.

PREREQUISITE(S)

None.

COURSE STRUCTURE AND CONTENT

3 lecture hours/week; 0.5 course.

Lectures will be integrated with reading materials, legal cases, visual presentations, and group discussions.

COURSE MATERIALS

Required texts:

Readings in Philosophy of Law, 3rd ed., Culver, Keith, C. and Giudice, Michael, Broadview Press (2017). (paperback)

Canadian Cases in Philosophy of Law, 5th ed., Bickenbach, J.E., Broadview Press (2018). (paperback)

COURSE REQUIREMENTS

Class Attendance	20%
First Paper	20%
Second Paper	30%
Final Exam	30%

EVALUATION

Class Participation

The 20% class participation grade is divided between a written and oral component:

1. A question, or series of related questions, typically concerning the readings will be assigned 4 times in the term as specified in the reading syllabus. A written answer (approximately 2 double-spaced pages) is to be submitted. Each answer will be worth 2.5% of the final grade, which is awarded on the basis of the clarity and persuasiveness.
2. In addition to classroom discussion of assigned readings, students will be expected to attend class and discuss their assignments during the class in which they are due.

Papers

Format: 5 double-spaced pages, i.e. approximately 1250 words. **Hardcopy** to be submitted **in class** on the due date.

Plagiarism Check: Essays must also be submitted electronically to OWL on the due date to be evaluated through turnitin. Essays not submitted to OWL will not receive a grade.

Marking Criteria: Each paper will be graded out of 50 according to the following criteria:

Understanding: How well does the author understand and make judicious use of the relevant course material? How well does s/he understand the complexity of the issues involved? [15 marks]

Argument: Does the author use cogent arguments to support his or her position? Do the claims made in different parts of the paper follow from one another and are they consistent? [15 marks]

Clarity: Is the author's position clear, with an explicitly articulated thesis, and is the paper clearly written overall? Does the paper answer the questions asked? Could another student at the same level who is not enrolled in the course understand the paper? [10 marks]

Organization: Does the author reveal a plan for the paper at the outset and does s/he follow that plan? Does the paper have an explicit overall direction? [5 marks]

Style: Does the author's paper use correct grammar and syntax? Have the guidelines for proper format been followed? Has the author cited sources where necessary, following a recognized style? [5 marks]

Final Exam

The format will be short answer and essay. Further details will be provided to the class later in the term.

Reading Syllabus

Date	Topic	Readings	Assignments (Due beginning of Monday's class)
Jan 7, 9	Constitutional Rights, Judicial Review and Democracy	Bickenbach: Part I; Part VI: <i>Sauve</i> ; Charter of Rights and Freedoms (pp.399-405)	
Jan 14, 16	a. Ulysses Metaphor	Culver, Chapter 6: Waldron	Question #1
Jan 21, 23	b. Living Tree Metaphor	Culver, Chapter 6: Waluchow	
Jan 28, 30	(continued)		Question #2
	Limits on Individual Liberty a. Hate Propaganda and Anti-Terrorism	Bickenbach, Part II: <i>Keegstra</i> Culver, Chapter 7: Mill, Dworkin	
Feb 4, 6	(continued)		
Feb 11, 13	b. Corporate "Persons"	Bickenbach, Part II: <i>Big M Drug Mart</i> Documentary: <i>The Corporation</i>	Paper #1
Feb 18, 20		Reading Week	
Feb 25, 27	b. Moralism	Bickenbach, Part II: <i>Butler</i> Culver, Chapter 7: Devlin; Hart	
Mar 4, 6	(continued)		Question #3
March 11, 13	Criminal Responsibility a. What does it mean?	Bickenbach, Part V: <i>Motor Vehicle Act</i> ; Part VI: <i>Sault Ste. Marie</i> ; <i>Hundal</i> ; <i>Perka</i> ; <i>Lavelle</i> ; <i>Mallott</i> Culver, Chapter 8: Hart	
March 18, 20	b. Intentions and Actions c. Hate Crime	Bickenbach, Part VII: <i>Machekequonabe</i> Culver, Chapter 8: Duff, Hurd	Question #4
March 25, 27	International Law a. Is it Law?	Bickenbach, Part VIII: <i>Trail Smelter</i> ; <i>SS Lotus</i> Culver, Chapter 9: Grotius, Hart	
Apr 1, 3	b. What is its Nature?	Culver, Chapter 9: Koskenniemi, Cotterrell	
Apr 8	(continued)		Paper #2
Apr 11-30	Final Exam Period		

Appendix to Course Outlines

Prerequisite and Antirequisite Information

Students are responsible for ensuring that they have successfully completed all course prerequisites and that they have not completed any course antirequisites. Unless you have either the requisites for this course or written special permission from your Dean to enrol in it without them, you may be removed from this course and it will be deleted from your record. If you enrol in this course despite having already taken an antirequisite you may be removed from this course and it will be deleted from your record. Removals for these reasons may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites or for having already taken the antirequisites.

Conduct of Students in Classes, Lectures, and Seminars

Membership in the community of Huron University College and the University of Western Ontario implies acceptance by every student of the principle of respect for the rights, responsibilities, dignity and well-being of others and a readiness to support an environment conducive to the intellectual and personal growth of all who study, work and live within it. Upon registration, students assume the responsibilities that such registration entails. The academic and social privileges granted to each student are conditional upon the fulfillment of these responsibilities.

In the classroom, students are expected to behave in a manner that supports the learning environment of others. Students can avoid any unnecessary disruption of the class by arriving in sufficient time to be seated and ready for the start of the class, by remaining silent while the professor is speaking or another student has the floor, and by taking care of personal needs prior to the start of class. If a student is late, or knows that he/she will have to leave class early, be courteous: sit in an aisle seat and enter and leave quietly.

Please see the *Code of Student Conduct* at:

<https://huronuc.on.ca/sites/default/files/pdfs/Code%20of%20Student%20Conduct.pdf>

Technology

It is not appropriate to use technology (such as, but not limited to, laptops, cell phones) in the classroom for non-classroom activities. Such activity is disruptive and is distracting to other students and to the instructor, and can inhibit learning. Students are expected to respect the classroom environment and to refrain from inappropriate use of technology and other electronic devices in class.

Academic Accommodation for Medical/Non-Medical Grounds

Students who require special accommodation for tests and/or other course components must make the appropriate arrangements with the Student Development Centre (SDC). Further details concerning policies and procedures may be found at:

http://www.sdc.uwo.ca/ssd/?requesting_acc

- (a) **Medical Grounds for assignments worth 10% or more of final grade: Go Directly to Academic Advising**

University Senate policy, which can be found at

http://www.uwo.ca/univsec/pdf/academic_policies/appeals/accommodation_medical.pdf,

requires that all student requests for accommodation on medical grounds for assignments worth 10% or more of the final grade be made directly to the academic advising office of the home faculty (for Huron students, the “home faculty” is Huron), with supporting documentation in the form (minimally) of the Senate-approved Student Medical Certificate found at: http://www.uwo.ca/univsec/pdf/academic_policies/appeals/medicalform_15JUN.pdf.

The documentation is submitted in confidence and will not be shown to instructors. The advisors will contact the instructor when the medical documentation is received, and will outline the severity and duration of the medical challenge as expressed on the Student Medical Certificate and in any other supporting documentation. The student will be informed that the instructor has been notified of the presence of medical documentation, and will be instructed to work as quickly as possible with the instructor on an agreement for accommodation. The instructor will not normally deny accommodation where appropriate medical documentation is in place and where the duration it describes aligns with the due date(s) of assignment(s). Before denying a request for accommodation on medical grounds, the instructor will consult with the Dean. The instructor’s decision is appealable to the Dean.

(b) Accommodation on Medical Grounds for assignments worth less than 10% of final grade: Consult Instructor Directly

When seeking accommodation on medical grounds for assignments worth less than 10% of the final course grade, the student should contact the instructor directly. The student need only share broad outlines of the medical situation. The instructor **may** require the student to submit documentation to the academic advisors, in which case she or he will advise the student and inform the academic advisors to expect documentation. The instructor may not collect medical documentation. The advisors will contact the instructor when the medical documentation is received, and will outline the severity and duration of the medical challenge as expressed on the Student Medical Certificate and in any other supporting documentation. The student will be informed that the instructor has been notified of the presence of medical documentation, and will be instructed to work as quickly as possible with the instructor on an agreement for accommodation. The instructor will not normally deny accommodation where appropriate medical documentation is in place and where the duration it describes aligns with the due date(s) of assignment(s). Before denying a request for accommodation on medical grounds, the instructor will consult with the Dean. The instructor’s decision is appealable to the Dean.

(c) Non-medical Grounds: Consult Instructor Directly

Where the grounds for seeking accommodation are not medical, the student should contact the instructor directly. Late penalties may apply at the discretion of the instructor. Apart from the exception noted below, academic advisors will not be involved in the process of accommodation for non-medical reasons.

Where a student seeks accommodation on non-medical grounds where confidentiality is a concern, the student should approach an academic advisor with any documentation available. The advisors will contact the instructor after the student’s request is received, and will outline the severity and duration of the challenge without breaching confidence. The student will be informed that the instructor has been notified that significant circumstances are affecting or have affected the student’s ability to complete work, and the student will be instructed to work as quickly as possible with the instructor on an agreement for accommodation. Before denying a request for accommodation where documentation has been submitted to an academic advisor, the instructor will consult with the Dean. The instructor’s decision is appealable to the Dean.

Statement on Academic Offences

Scholastic offences are taken seriously and students are directed to read the appropriate policy,

specifically, the definition of what constitutes a Scholastic Offence, at the following Web site:
http://www.uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf

Statement on Academic Integrity

The International Centre for Academic Integrity defines academic integrity as "a commitment, even in the face of adversity, to five fundamental values: honesty, trust, fairness, respect, and responsibility. From these values flow principles of behaviour that enable academic communities to translate ideals to action." (CAI Fundamental Values Project, 1999).

A lack of academic integrity is indicated by such behaviours as the following:

- Cheating on tests;
- Fraudulent submissions online;
- Plagiarism in papers submitted (including failure to cite and piecing together unattributed sources);
- Unauthorized resubmission of course work to a different course;
- Helping someone else cheat;
- Unauthorized collaboration;
- Fabrication of results or sources;
- Purchasing work and representing it as one's own.

Academic Integrity: Importance and Impact

Being at university means engaging with a variety of communities in the pursuit and sharing of knowledge and understanding in ways that are clear, respectful, efficient, and productive. University communities have established norms of academic integrity to ensure responsible, honest, and ethical behavior in the academic work of the university, which is best done when sources of ideas are properly and fully acknowledged and when responsibility for ideas is fully and accurately represented.

In the academic sphere, unacknowledged use of another's work or ideas is not only an offence against the community of scholars and an obstacle to academic productivity. It may also be understood as fraud and may constitute an infringement of legal copyright.

A university is a place for fulfilling one's potential and challenging oneself, and this means rising to challenges rather than finding ways around them. The achievements in an individual's university studies can only be fairly evaluated quantitatively through true and honest representation of the actual learning done by the student. Equity in assessment for all students is ensured through fair representation of the efforts by each.

Acting with integrity at university constitutes a good set of practices for maintaining integrity in later life. Offences against academic integrity are therefore taken very seriously as part of the university's work in preparing students to serve, lead, and innovate in the world at large.

A university degree is a significant investment of an individual's, and the public's, time, energies, and resources in the future, and habits of academic integrity protect that investment by preserving the university's reputation and ensuring public confidence in higher education.

Students found guilty of plagiarism will suffer consequences ranging from a grade reduction to failure in the course to expulsion from the university. In addition, a formal letter documenting the offence will be filed in the Dean's Office, and this record of the offence will be retained in the Dean's Office for the duration of the student's academic career at Huron University College.

All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All

papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com.

Computer-marked multiple-choice tests and/or exams may be subject to submission for similarity review by software that will check for unusual coincidences in answer patterns that may indicate cheating.

Personal Response Systems (“clickers”) may be used in some classes. If clickers are to be used in a class, it is the responsibility of the student to ensure that the device is activated and functional. Students must see their instructor if they have any concerns about whether the clicker is malfunctioning. Students must use only their own clicker. If clicker records are used to compute a portion of the course grade:

- the use of somebody else’s clicker in class constitutes a scholastic offence,
- the possession of a clicker belonging to another student will be interpreted as an attempt to commit a scholastic offence.

Policy on Special Needs

Students who require special accommodation for tests and/or other course components must make the appropriate arrangements with the Student Development Centre (SDC). Further details concerning policies and procedures may be found at:

http://www.sdc.uwo.ca/ssd/?requesting_acc

Attendance Regulations for Examinations

A student is entitled to be examined in courses in which registration is maintained, subject to the following limitations:

- 1) A student may be debarred from writing the final examination for failure to maintain satisfactory academic standing throughout the year.
- 2) Any student who, in the opinion of the instructor, is absent too frequently from class or laboratory periods in any course will be reported to the Dean of the Faculty offering the course (after due warning has been given). On the recommendation of the Department concerned, and with the permission of the Dean of that Faculty, the student will be debarred from taking the regular examination in the course. The Dean of the Faculty offering the course will communicate that decision to the Dean of the Faculty of registration.

Class Cancellations

In the event of a cancellation of class, every effort will be made to post that information on the Huron website, <https://huronuc.on.ca/about/accessibility> (“Cancellations and Closures”).

Mental Health @ Western

Students who are in emotional/mental distress should refer to Mental Health @ Western <http://www.uwo.ca/uwocom/mentalhealth/> for a complete list of options about how to obtain help.

Academic Advising

For advice on course selections, degree requirements, and for assistance with requests for medical accommodation [see above], students should contact an Academic Advisor in Huron’s Student Support Services (huronsss@uwo.ca). An outline of the range of services offered is found on the Huron website at: <https://huronuc.ca/student-life-campus/student-services/academic-advising>

Department Chairs and Program Directors and Coordinators are also able to answer questions about their individual programs. Their contact information can be found on the Huron website at:

<https://huronuc.ca/student-life-campus/art-social-science>