

PHIL 2220: PHILOSOPHY & LAW

Spring 2018

Instructor: Shane Gronholz

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MWF 10:00-10:50 | GUGG 2

Office Hours: MWF 12:00-1:00 | HLMS 192

What is this class about?

The law plays an enormous role in determining the shape of lives, from our choices regarding where we live, whether and to whom we marry, what we eat, what career we choose, how we spend our free time, where we go to the bathroom, and much, much more. In fact, it would be hard to think of any aspect of our lives that the law does not touch in a significant way.

What's more, one of the primary ways the law is able to achieve this profound influence over our lives is through coercion. If we disobey laws, the state will attempt to harm us, often quite seriously.

Finally, what laws exist in our country depend in part on the beliefs we *as citizens* have about the law. In light of all of this, the law warrants our careful reflection. In this class, we will explore some fundamental philosophical questions about the law, paying special attention to the intersection between the law and morality. What, if anything, does morality have to do with the law? Should morality serve as a *constraint* on our laws? Should the law attempt to encourage or require moral behavior and prohibit immoral behavior? Is the fact that an act is immoral necessary or sufficient for the state to prohibit it? Is there a moral requirement to obey the law?

We will end the course by considering punishment. Causing and threatening to cause serious harm to another individual – punishing them - requires justification. What justification is there for this type of practice, if any? How you answer this question will, to a large extent, determine what kinds of punishment you think are good, appropriate, or justified.

Course Materials

There is no book for this class. All readings can be found on Desire2Learn. You can also check your grade there.

Assessment

(see schedule below for due dates)

I. Short Papers (2x15%=30%): You will write two short papers (around 1000-2000 words). The purpose of these papers is to defend a philosophical thesis related to our topics that you think is true. This will most likely be a critical paper – a paper criticizing an argument or idea we have encountered. Because these are short, it will be important to be brief and get to your argument quickly.

These papers are short, but coming up with a good philosophical argument is very difficult, so be prepared to spend a lot of time thinking carefully about how you want to argue. You will have the opportunity to develop one of these papers (or your debate topic) into a longer paper.

2. Debate (15%): You will participate in one group debate. This will take place during our “Applied Issues” unit. We will discuss the debate format, and select topics, later in the semester.

3. Term paper (30%): You will write one longer paper (around 4000 words). Though you can write on any topic discussed in class, you are allowed to select a topic from one of your two short papers, or your debate topic. This will give you a chance to develop your ideas and arguments more fully, and respond to possible objections.

3. Reading Quizzes (25%). There will be quite a few pop quizzes throughout the semester. These quizzes are designed to test that you are doing and understanding the readings, and to give you an incentive never to miss class. For each reading, there will be a set of Reading Questions posted in the Content area of D2L under “Reading Questions.” All of the questions on the pop quizzes will be taken directly from these reading questions. Furthermore, these quizzes are open-note. Thus, as you are doing each reading and taking notes on it, you should write down each question in your notes and then write your answer to it, which you can find by reading, studying, and re-reading the reading. Then bring these notes with you to class. All of the answers to the pop-quiz questions should then be right in your notes! So there is no reason that you all shouldn't ace all of the reading quizzes.

Quizzes are not restricted to readings that were due on the day of the quiz. They might cover readings that were due on earlier days. You are permitted to use notes only that you yourself created from doing the reading; you cannot use or copy a classmate's notes. Though the pop quizzes are open-note, they are not open-book or "open-reading." There might be a short homework assignment or two. If there are, they will be lumped in with your quiz grades.

Policies, tips, and other stuff:

Class mates and missed classes: So that you will have someone from whom to get the notes and any other pertinent information should you miss class, introduce yourself to two classmates and get their email addresses and phone numbers. If you miss class, it is up to you to get yourself caught up. Please don't ask me what you missed. 😊

Class time is special time: Most of your day is ordinary time. You do ordinary things and think and behave in ordinary ways. But class time is special time. Think of the classroom as a sanctified area. Here we become philosophers and think big thoughts. When you enter the classroom, put on your thinking cap, roll up your sleeves, and get ready to do

some serious philosophical thinking. Sit up straight. Pay attention. Be respectful. Challenge the things said by me, our authors, and your classmates.

Attendance: I expect you to come to class every day. Missed class work will be excused only if you (1) have a good reason to be absent from class, (2) can provide documentation of this reason, and (3) have notified me of the absence in advance.

Late work: Late papers will be lowered by one “grade increment” for every day they are late (e.g., a B+ paper that is one day late will get a B; a C paper that is two days late will get a D+). Computer crash or theft is not a legitimate excuse. You should already be using a cloud-based service. If something extremely dire happens such that an extension is obviously necessary, documentation is required.

Extra credit: Extra credit will not be offered. Stay on top of things.

Participate a lot: Philosophy is really fun. Try to participate as much as you can, even if you are shy. You will get a lot more out of the class if you do.

Office Hours: Come to office hours. I like getting to know students and it’s a good chance for you to get help on anything you are struggling with or talk about your papers.

Technology in the classroom: Texting during class is prohibited. If you must read or send a text, please step out of the classroom. First-time offenders will be asked to stop. Additional offenses will result in dismissal from class and a loss of participation points. If you use a laptop in class, you may use it only for taking notes. No web-surfing, emailing, IMing, Facebooking, etc. If you use a laptop, disable the wifi.

Email: From time to time, I will be sending you emails with important information about the class, including changes to the readings and schedule. You will be responsible for the information I send via email.

Phone: My phone number is on the top of the syllabus. You may call or text me, but please use common sense when it comes to the time of day. If you call and I don’t answer, I can usually respond to voicemails fairly quickly.

Other grading notes: Grades are not a personal evaluation of you, and they do not report how hard you tried. They report only how well you completed the assignments. Do not worry too much about your grade, since for most of you, minor differences between grades will have little to no effect on your future lives.

Plagiarism: The honor code is mentioned in general below under “Fine Print” but I want to highlight plagiarism here. I cannot emphasize enough how important it is for you to understand what constitutes plagiarism. In EVERY SINGLE case of plagiarism I have ever encountered, the student claimed that he or she did not intend to plagiarize. This does not count as a legitimate excuse. **The minimum penalty for plagiarism is an F for the course,** though even more severe penalties are possible.

Schedule

All readings can be found on D2L

- 1.17 Intro, syllabus
- 1.19 The Queen v. Dudley and Stephens

Unit 1: Moral Theories and Concepts

- 1.22 James Rachels: "The Utilitarian Approach"
- 1.24 James Rachels: "The Debate Over Utilitarianism"
- 1.26 James Rachels: "Are There Absolute Moral Rules?"

- 1.29 James Rachels: "Kant and Respect for Persons"
- 1.31 Catch up – no new reading
- 2.2 Torbjörn Tännsjö: "Moral Rights"

- 2.5 W.D. Ross: "What Makes Right Acts Right?"
- 2.7 Judith Jarvis Thomson: "Ruminations on Rights"
- 2.9 Catch-up: no new reading

Unit 2: Morality and the Law

- 2.12 Tariq Moosa: "Murders, Monsters, and Mirrors"
Podcast: *More Perfect* "Imperfect Plaintiffs" (from beginning – 31:20)
- 2.14 John Stuart Mill: *On Liberty* (selections)
- 2.16 Joel Feinberg: "A Ride on the Bus"
First short paper is due

- 2.19 Patrick Devlin: "Morals and the Criminal Law"
- 2.21 H.L.A Hart: "Immorality and Treason"
- 2.23 No new reading

- 2.26 Gerald Dworkin: "Devlin Was Right"
- 2.28 Jeremy Waldron: "A Right to do Wrong"
- 3.2 No new reading

- 3.5 Gerald Dworkin: "Paternalism"
- 3.7 Michael Huemer: "The Problem of Political Authority"
- 3.9 The Psychology of Authority (lecture adapted from Huemer – no reading)

Unit 3: Applied Issues

- 3.12 Don Marquis: “Why Abortion is Immoral”
- 3.14 Judith Jarvis Thomson: “A Defense of Abortion”
- 3.16 Debate: Abortion

Second Short paper is due

- 3.19 “Rawls and Nozick on Justice”
- 3.21 Rawls v. Nozick on natural endowments
- 3.23 Debate: The welfare state

Spring Break: March 26-30th

- 4.2 Eugene Volokh: “Religious exemptions—a guide for the confused”
John Corvino: *Debating Religious Liberty and Discrimination* (selections)
- 4.4 Anderson and Girgis: *Debating Religious Liberty and Discrimination* (selections)
- 4.6 Debate: Religious Liberty and Discrimination

Unit 4: Punishment

- 4.9 Podcast: *This American Life*, “Except for that One Thing” (32:13 - 49:24)
Podcast: *More Perfect*, “Cruel and Unusual”
- 4.11 Jeremy Bentham: “Cases Not Right for Punishment”
(and further remarks on consequentialist accounts of punishment)
- 4.13 Randy Barnett: “Restitution: A New Paradigm of Criminal Justice”

- 4.16 Roger Pilon: “Criminal Remedies: Punishment, Restitution, or Both?” (selection)
- 4.18 Jean Hampton: “A New Theory of Retribution”
- 4.20 No new reading

- 4.23 Michael Huemer, “America’s Unjust Drug War”
- 4.25 Lisa Guenther, “The Living Death of Solitary Confinement”
[Possible guest speaker]
- 4.27 Michelle Alexander: *The New Jim Crow*, chapter 4
Term paper is due

- 4.30 Michelle Alexander: *The New Jim Crow*, chapter 5
- 5.2 Final day: wrap-up and review

Fine Print

Honor Code

All students enrolled in a University of Colorado Boulder course are responsible for knowing and adhering to [the academic integrity policy](#). Violations of the policy may include: plagiarism, cheating, fabrication, lying, bribery, threat, unauthorized access to academic materials, clicker fraud, resubmission,

and aiding academic dishonesty. All incidents of academic misconduct will be reported to the Honor Code Council (honor@colorado.edu; 303-735-2273). Students who are found responsible for violating the academic integrity policy will be subject to nonacademic sanctions from the Honor Code Council as well as academic sanctions from the faculty member. Additional information regarding the academic integrity policy can be found at the [Honor Code Office website](#).

Accommodations for Disabilities

If you qualify for accommodations because of a disability, please submit your accommodation letter from Disability Services to your faculty member in a timely manner so that your needs can be addressed. Disability Services determines accommodations based on documented disabilities in the academic environment. Information on requesting accommodations is located on the [Disability Services website](#) (www.colorado.edu/disabilityservices/students). Contact Disability Services at 303-492-8671 or dsinfo@colorado.edu for further assistance. If you have a temporary medical condition or injury, see [Temporary Medical Conditions](#) under the Students tab on the Disability Services website and discuss your needs with your professor.

Religious Observances

Campus policy regarding religious observances requires that faculty make every effort to deal reasonably and fairly with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance. Please let me know well in advance about any such conflicts, and we'll work together to resolve them. See campus policy regarding religious observances for full details.

Classroom Behavior

Students and faculty each have responsibility for maintaining an appropriate learning environment. Those who fail to adhere to such behavioral standards may be subject to discipline. Professional courtesy and sensitivity are especially important with respect to individuals and topics dealing with race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation or political philosophy. Class rosters are provided to the instructor with the student's legal name. I will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records. For more information, see the policies on [classroom behavior](#) and the [Student Code of Conduct](#).

Discrimination And Harassment

We at the University of Colorado Boulder are committed to maintaining a positive learning, working, and living environment. CU-Boulder will not tolerate acts of discrimination or harassment based upon Protected Classes or related retaliation against or by any employee or student. For purposes of this CU-Boulder policy, "Protected Classes" refers to race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation or political philosophy. Individuals who believe they have been discriminated against should contact the Office of Institutional Equity and Compliance (OIEC) at 303-492-2127 or the Office of Student Conduct and Conflict Resolution (OSC) at 303-492-5550. Information about the OIEC, the above referenced policies, and the campus resources available to assist individuals regarding discrimination or harassment can be found at the OIEC website. The full policy on discrimination and harassment contains additional information.