

PHI 119 Philosophy of Law

Spring 2019

Instructor Information

Instructor

Dr. Justin Morton

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Office Location & Hours

Social Sciences 2281
Tues/Thurs. 3-4

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Office Location & Hours

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Course Description

In 1850, the U.S. Congress passed the Fugitive Slave Act, which required escaped slaves to be returned to their masters. This was clearly unjust. But does that invalidate it as a law? Some think yes—“unjust law is not law”, as Augustine said. Others think that what is law depends only on social facts, and not at all on how *good* the supposed law is.

In this course, we’ll discuss this issue, as well as several others: did Americans in 1850 have an obligation to follow the law, or were they permitted to break it? When can the government coerce my action—just when that action harms another person? Or is my merely *offending* you grounds for the government to punish me? Suppose I do offend you, but I didn’t intend to—should I be held responsible for this? And finally, even if the Constitution were to say that we can’t be punished for merely giving offence, how should we go about interpreting this law?

We’ll consider responses to each of these questions, by philosophers and legal theorists, both old and new.

Evaluation

Logic Homework | 10%

Presentation | 10%

Reading Responses (10) | 10%

Essay 1 (1 page) | 15%

Essay 2 (2 pages) | 20%

Essay 3 (3 pages) | 30%

Reading responses will be between ½ page and a page, and will summarize some argument from the week’s reading(s) in valid premise-conclusion form, before responding to it in some way (this part is fairly open-ended). Reading responses will be graded pass/fail but the standard for passing will be B- or better. These will be due on Tuesday of each week **in class, at the start of class**. You can turn in one response per class day, starting the second week, for a total of 18 possible attempts, though you only need to pass 10.

The presentation will be a group presentation and will also be graded pass/fail. We will have a presentation at the beginning of **every** class starting in the second week of the quarter. Aim for 8-15 minutes. You can use your time how you want, as long as you are summarizing some argument from the reading. (I.e., after summary, you can spend your time (i) giving an objection to the argument, (ii) noting some interesting implications of it, (iii) engaging in discussion with the class, etc.)

Prompts for the papers will be posted on Canvas at least a week ahead of their due date.

Course Schedule

Week	Topic	Reading
Week 1	When is coercion justified?	Mill, chapter 1 of <i>On Liberty</i>
Week 2		Feinberg, "Grounds for Coercion" (ch. 2 of <i>Social Philosophy</i>) Feinberg, "Hard Cases for the Harm Principle" (ch. 3 of <i>Social Philosophy</i>) Logic Homework due 4/9 11:59 p.m.
Week 3		Mill, selections from "Of the Liberty of Thought and Discussion" (ch. 2 of <i>On Liberty</i>) Altmann, "Speech Codes and Expressive Harm" Paper 1 due Thurs. 4/18 11:59 p.m.
Week 4	(Why) Do we have an obligation to obey the law?	Rawls, "Legal Obligation and the Duty of Fair Play" Simmons, "The Principle of Fair Play"
Week 5		MLK Jr., "Letter from Birmingham Jail" Singer, from <i>Democracy and Disobedience</i>
Week 6	What is law? • Natural law theory	Aquinas, from <i>Summa Theologica</i> John Finnis, from <i>Natural Law and Natural Rights</i>
Week 7	• Legal Positivism	Austin, from <i>The Province of Jurisprudence Determined and the Uses of the Study of Jurisprudence</i> Hart, from <i>The Concept of Law</i> Paper 2 due Thurs. 5/16 11:59 p.m.
Week 8	When is someone legally responsible for an act?	Wasserstrom, "Strict Liability in the Criminal Law" Bonnie, "The Moral Basis of the Insanity Defense"
Week 9	How should we interpret a legal text?	Bork, selections from <i>The Tempting of America</i> Brest, "The Misconceived Quest for the Original Understanding"
Week 10		Dworkin, "Natural Law Revisited" Alexander, "Constrained by Precedent"

****Paper 3 due as your take-home Final Exam Monday, June 10, 5:30 p.m.**

Additional Information and Resources

Electronics policy:

No cellphones or laptops in class. This does not apply to those who have a good reason to be using such. If you do have such an excuse, see me privately.

Student Academic Code of Conduct:

<http://sja.ucdavis.edu/files/cac.pdf>

Plagiarism:

Plagiarism violates the UCD Code of Academic Conduct. Students suspected of plagiarism will be referred to Student Judicial Affairs. For information on what constitutes plagiarism and how to avoid it, see the handout “Avoiding Plagiarism”. We will also discuss as a class what constitute good citation practices, in the week before the first short paper is due.

Writing Experience (WE):

This course fulfills the WE requirements. Students will write at least 10 pages over the course of the term. The first four papers are designed so that feedback on each of the prior papers will inform students’ work on the next paper. These assignments are designed so that students can practice the basic task of summarizing and criticizing an argument multiple times, improving due to my written feedback on each.