Professor: Chris Latiolais
202 Humphrey House
337-7076 (Office); -7043 (Secretary)
Office Hours:

1) Mon. 9:00 - 10:00
2) Tues. 1:00 - 3:00
3) By Appointment.

TEXTS:


COURSE GOALS:

This course is an introduction to some basic issues in the philosophy of law. In the first, historical part of the course, we will review the traditional schools of thought concerning the origin and justification of legal systems, from theological and natural-law theories to legal positivism, formalism and realism. The second part of the course examines, in some detail, a contemporary challenge to the traditional idea that "the rule of law" should be impartial and objective: the so-called "Critical Legal Studies movement." In the third, we will explore special problems in jurisprudence, such as legal paternalism, constitutional privacy, freedom of
expression, and constitutional interpretation. In the fourth, students will present their independent research of a current legal issue.

EVALUATION:

Students will be evaluated on the basis of class participation, fidelity to an academic journal, two midterm examinations and a final paper.

Class Participation Seminar presentations and discussion 30%
Midterm examinations 2 @ 15% each 30%
Biweekly Quizzes 5 at 5% each 25%
Journal Required though ungraded
Final Paper 10-12 pages 15%

POLICIES:

Open, respectful, critical discussion is the life-blood of this course. Journal provides preparation for classroom deliberation, and the paper offers the student the opportunity to gather his or her Journals will be collected every three weeks. The final paper is due on the date scheduled for the final examination. 3 unexcused absences will result in a full grade reduction.

READING SCHEDULE

INTRODUCTION:

TUE., JAN. 5TH.

WEEK ONE

PART ONE: THE NORMATIVE FOUNDATIONS OF LAW: NATURAL LAW THEORY AND LEGAL POSITIVISM.

THUR., JAN. 7TH.

1. Norman Kretzmann: "Lex inustia Non Est Lex: Laws on Trial in Aquinas' Court of Conscience."

2. Anthony D'Amato: "On the Connection Between Law and Justice."
3. Altman: "The Rule of Law"

SAT, JAN. 9TH. Movie: The Trial at Nurenberg.

A. THE HART-FULLER DEBATE:

TUES., JAN. 12TH. WEEK TWO

1. John Austin: A Positivist Conception of Law, from The Province of Jurisprudence Determined (1832).


THURS., JAN. 14TH.

1. Lon L. Fuller: "Positivism and Fidelity to Law -- A Reply to Professor Hart" (1958).

2. Lon L. Fuller: Eight Ways to Fail to Make Law, from The Morality of Law (1964).


4. Altman: "Law and Morality"

5. Quiz #1.

B. CIVIL DISOBEDIENCE: MUST LAWS BE MORAL?

TUE., JAN. 19TH WEEK THREE

1. Martin Luther King, Jr.: Letter from Birmingham Jail, from Why We Can't Wait (1963).

2. Review & Exam preparation.

THURS., JAN. 21ST.

1. Midterm examination #1.

C. THE "THIRD THEORY OF LAW": DWORIN'S REASSERTION OF THE CONNECTION BETWEEN MORALITY AND LAW.

TUE., JAN. 26TH. WEEK FOUR


THURS., JAN. 28TH.
D. LEGAL REALISM, RATIONAL DECISION THEORY AND FEMINIST JURISPRUDENCE:

TUE., FEB. 2ND

1. O. W. Holmes, Jr.: "The Path of the Law" (1897).


3. Altman: "Law and Economics" (Altman, pp. 149-177).

4. Quiz #3.

THURS., FEB 4TH.


7. Michael M. v. Superior Court of Sonoma County -- United States Supreme Court, 1981.


E. THE CHALLENGE OF CRITICAL LEGAL STUDIES:

TUES., FEB. 9TH.

1. Andrew Altman: "Legal Realism, Critical Legal Studies, and Dworkin" (1986).


3. Andrew Altman: "Critical Legal Studies v. Liberalism" & "Liberalism and Legality" (Chapters One and Two of CLS). [Recommended]
THURS., FEB. 11TH.

1. Critical Legal Studies (Cont.).

2. Andrew Altman: "The Possibility of the Liberal Rule of Law" (Chapter Three of CLS) [Recommended].

3. Andrew Altman: "The Contradictions of Law" (Chapter Four of CLS) [Recommended].

4. Andrew Altman: "Law and Social Reality" (Final Chapter of CLS) [Recommended].

5. Midterm Examination #2.

PART 2: THE CONSTITUTIONAL-DEMOCRATIC FOUNDATIONS OF LAW: THE GAP BETWEEN MORAL SELF-DETERMINATION AND POLITICAL LEGITIMACY.

TUES., FEB. 16TH. WEEK

SEVEN

A. CIVIL LIBERTIES AND THE SCOPE OF LAW:


THURS., FEB. 18TH.

1. Civil Liberties (Cont.).

B. CONSTITUTIONAL PRIVACY:

TUES., FEB. 23RD. WEEK

EIGHT


THURS., FEB. 25TH.
1. Constitutional Privacy (Cont.).

2. Quiz #4.

C. FREEDOM OF EXPRESSION AND ITS LIMITS:

TUES., MARCH 2ND. WEEK NINE

1. Joel Feinberg: "Limits to the Free Expression of Opinion."


6. Quiz # 5.

THURS., MARCH 4TH.

1. Freedom of Expression (Continued).

2. Quiz #5.

TUES., MARCH 9TH. WEEK TEN

1. Review.

THURS., MARCH 11TH.

1. Student Evaluations.

FINALS WEEK