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

Office Hours:
1) Mon. 11:30 - 1:30
2) Tues. 10:30 - 11:30
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.

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<tbody>
<tr>
<td>Class Participation</td>
<td>30%</td>
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<tr>
<td>Midterm examinations</td>
<td>2 @ 15% each</td>
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<tr>
<td>Biweekly Quizzes</td>
<td>5 at 5% each</td>
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<tr>
<td>Journal</td>
<td>Required though ungraded</td>
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<tr>
<td>Final Paper</td>
<td>10-12 pages</td>
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POLICIES:

Open, respectful, critical discussion is crucial to this course. Journals allow students to prepare detailed notes for classroom discussions, and quizzes offer students the opportunity to demonstrate mastery of basic concepts and arguments. The midterm paper assignments give students the opportunity to address a specific topic in depth, and the final allows a student to address a specific legal issue from the critical perspective developed within the course. 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:

TUESDAY

1. Course Mechanics

2. Introductory Lecture on the philosophical study of law.

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

THURSDAY.
1. Norman Kretzmann: "Lex iniustia 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"

SATURDAY Movie: The Trial at Nuremberg.

A. THE HART-FULLER DEBATE:

TUESDAY WEEK TWO

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


THURSDAY:

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?

TUESDAY WEEK THREE

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

2. Review & Exam preparation.

THURSDAY

1. Midterm examination #1.

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

TUESDAY WEEK FOUR


THURSDAY:

1. "Third Theory" (Cont.).

2. Quiz # 2.

D. LEGAL REALISM, RATIONAL DECISION THEORY AND FEMINIST JURISPRUDENCE:

TUESDAY

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


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

4. Quiz #3.

THURSDAY:


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


E. THE CHALLENGE OF CRITICAL LEGAL STUDIES:

TUESDAY:

SIX

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

THURSDAY:

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.

TUESDAY: WEEK SEVEN

A. CIVIL LIBERTIES AND THE SCOPE OF LAW:


THURSDAY:

1. Civil Liberties (Cont.).

B. CONSTITUTIONAL PRIVACY:

TUESDAY: WEEK EIGHT


THURSDAY:

1. Constitutional Privacy (Cont.).

2. Quiz #4.

C. FREEDOM OF EXPRESSION AND ITS LIMITS:

TUESDAY:

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


6. Quiz # 5.

THURSDAY:

1. Freedom of Expression (Continued).

2. Quiz #5.

TUESDAY:

1. Review.

THURSDAY:

1. Student Evaluations.

FINALS WEEK
Please direct any questions or comments to the Chair of the Department.

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September 17, 2002