COURSE SYLLABUS:

PHILOSOPHY OF LAW

LECTURE NOTES:

PROFESSOR: Chris Latiolais, Chair
Philosophy Department
Kalamazoo College
Humphrey House #201
Telephone # 337-7076

- Mon. 8:00 - 10:00.
- Tues. 11:30- 12:30.
- By Appointment.

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 challenges to the traditional idea that "the rule of law" should be impartial and objective: Feminist Jurisprudence and Critical Legal Studies movement. In the third part of the course, we will examine the most sophisticated attempt to move beyond the basic schools of jurisprudence discussed in the first two parts of the course.

EVALUATION:

Students will be evaluated on the basis of class participation, vocabulary quizzes, midterm examinations and a final paper.

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<thead>
<tr>
<th>TYPE OF EVALUATION</th>
<th>FREQUENCY</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td>Class Participation: Seminar presentations, classroom discussion and email correspondence</td>
<td>20%</td>
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<tr>
<td>Quizzes</td>
<td>10 @ 5% = 50%</td>
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<tr>
<td>Final Paper (10-15 pages)</td>
<td>1 @ 30% = 30%</td>
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POLICIES:

Students are expected to follow the reading schedule and come to class prepared to actively discuss the texts they have read. More specifically, students must bring their texts to class with marginal notes smf highlighted passages of particular importance. Quizzes offer students the opportunity to identify and clarify central terms and concepts. The midterm assignments allow students to write an essays on key philosophical issues and arguments, and the final paper offers students the opportunity to respond in depth to a single topic. The final paper is due on the day scheduled for the final examination. 3 unexcused absences will result in a full grade reduction. Late papers will be marked down a half grade for the first day and a full grade for the second day. All work must be turned in at the end of term, unless alternative assignments have been given by the instructor.

TEXTS:


READING SCHEDULE

INTRODUCTION:

THURSDAY (WEEK ONE)

- Course Mechanics.
- Introductory Lecture: The philosophical study of law.

PART ONE: THE NORMATIVE FOUNDATIONS OF LAW: NATURAL LAW THEORY AND LEGAL POSITIVISM.
TUESDAY. (WEEK TWO)

- Brian Bix: "Natural Law Theory" (1996)
- Lon Fuller: "Eight Ways to Fail to Make a Law" (1964)
- Altman: "The Rule of Law"

A. THE HART-FULLER DEBATE:

THURSDAY

- John Austin: "A Positivist Conception of Law, from The Province of Jurisprudence Determined" (1832).
- Altman: "Law and Morality"
- Quiz #1

TUESDAY: (WEEK THREE)

- Lon L. Fuller: "Positivism and Fidelity to Law -- A Reply to Professor Hart" (1958)
- Riggs v. Palmer (1889)
- Jules L Coleman and Brian Leiter: "Legal Positivism" (1996).

WEDNESDAY NIGHT MOVIE: Do The Right Thing (8:00 PM, Dewing 103)

B. THE MORAL OBLIGATION TO OBEY THE LAW

THURSDAY

- Plato: Crito
- Martin Luther King, Jr.: "Letter from Birmingham Jail" (1963).
- Quiz #2

TUESDAY (WEEK FOUR)

- M. B. E. Smith: "Is There a Prima Facie Obligation to Obey the Law"
- Scott J. Shapiro: "Authority" (2002)

C. JUDICIAL REVIEW

THURSDAY

- O. W. Holmes, Jr. "The Path of the Law" (1897)
- Ronald M. Dworkin: "Integrity in Law" (1986).
- Lon Fuller: "The Case of the Speluncean Explorers" (1949).
- Quiz #3

TUESDAY: (WEEK FIVE)

- David Lyons: "Constitutional Interpretation and Original Meaning" (1987)
- Altman: "The Constitution".

THURSDAY

- Quiz #4

D. FEMINIST CONCERNS IN JURISPRUDENCE:

TUESDAY: (WEEK SIX)

- State v. Rusk -- Court of Appeals of Maryland, 1981.
- Michael M. v. Superior Court of Sonoma County -- United States Supreme Court, 1981.
- Altman: "Feminism and the Law" (Altman, pp. 199-238).
- Quiz # 5
E. THE CHALLENGE OF CRITICAL LEGAL STUDIES:

THURSDAY

- Andrew Altman: "Legal Realism, Critical Legal Studies & Dworkin [Handout]

F. MODELS OF FEMINIST JURISPRUDENCE:

TUESDAY: (WEEK SEVEN)

- Pat Castle Presentation [Read Handouts].
- Quiz # 6.

PART 2: THE DISCOURSE THEORY OF LAW AND DEMOCRACY:

THURSDAY:

- Habermas: "Law as a Category of Social Mediation between Facts and Norms"

TUESDAY: (WEEK EIGHT)

- Habermas: "Law as a Category of Social Mediation between Facts and Norms" (Continued)
- Quiz #7.

THURSDAY:

- Habermas: "A Reconstructive Approach to Law 1: The System of Rights"

TUESDAY: (WEEK NINE)

- Quiz #8

THURSDAY:

- Habermas: "The Indeterminacy of Law and the Rationality of Adjudication
- Quiz # 9.

TUESDAY: (WEEK TEN)

- Habermas: "Judiciary and Legislature: On the Role and Legitimacy of Constitutional Adjudication"
- Quiz #10.

THURSDAY:

- Habermas: "Paradigms of Law."
- Student Evaluations.

FINALS WEEK