

PA/PHIL/POL 324 – Law and Morality

Spring 2017, online

Instructor: Mr. Tristan Rogers, Ph.D. Candidate

Course website: <https://d2l.arizona.edu/d2l/home/563843>

Email: tristanrogers@email.arizona.edu

Office hours: By appointment, Department of Philosophy, SS 130. I'm also available by email and will do my best to reply within 48 hours (unless urgent).

Grader: Ms. Laura Moedano, M.A., lmoedano@email.arizona.edu

Course description: Law claims the authority to regulate our conduct via the use of coercive force. It regulates, for instance, who may drive, when and whom we can marry, how we conduct business, how our homes must be built, who may be licensed to practice certain professions, what substances we may ingest, and what will happen to us in the event that we disobey the law. In this class, we will examine a number of fascinating philosophical issues at the intersection of law and morality. When can the State justifiably interfere with the liberty of individuals? When can the State justifiably limit free speech? What justification might be given for State-imposed punishment? Is there a moral obligation to obey the law? Is civil disobedience ever justified? We will also consider a number of concrete moral issues including whether and when the State may prohibit physician-assisted suicide, regulate free speech, and impose the death penalty.

Course Objectives: Dedicated students will come away from the course with an understanding of:

- Competing theories in the philosophy of law
- An understanding of the strong and weak points of these theories
- An ability to express these ideas in an argumentative essay

Students will also develop their critical reading and reasoning skills. My hope is not that you come away from the course with a particular set of opinions, but that you are able to intelligently discuss and develop informed opinions on these complex and difficult issues.

Course format: This is an online course. Everything we do will be coordinated through D2L. The online lectures are delivered by Connie Rosati, Professor of Philosophy at UA, who developed an earlier version of the course. Tristan Rogers, however, is the primary instructor for the course. Please communicate with me, and our grader (when relevant), not Professor Rosati.

The course is organized into 15 thematic modules. Each module contains readings, lectures, discussions, and short quizzes. The lectures should help you better understand the readings and raise critical points for discussion. The quizzes on the materials will give you steady feedback on your comprehension and progress. Students will also be required to participate on the discussion board. There will be two short papers and one longer final paper. See below for more details on assignments.

Readings: The only required text for the course is John Stuart Mill, *On Liberty* (Hackett Edition). It is available at the University Bookstore and many other places. All other course readings will be posted to D2L.

Email policy: Feel free to email me about anything related to the course. This syllabus contains everything you need to know about the mechanics of the course. It is your responsibility to acquaint yourself with it.

Assessment:

15% – Discussion board posts (i.e. ‘participation’). You are *required* to make *one post* on the discussion board for each day of material (Wednesday and Friday), by either contributing your own thoughts about that day’s material, asking or answering a question, or simply participating in an ongoing discussion. These posts have no required length, but should be intelligently constructed.

15% – Reading and lecture quizzes. The readings and lectures are accompanied by comprehension quizzes. Each quiz must be completed by the end of each module. I will drop three of your lowest scores.

20% each – Short essays. 1500-2000 words. More details on essays will be provided as we proceed.

30 % – Final Paper. 2500-3000 words. *There is no final exam for this course.*

Please submit all written work via the Assignment tab on D2L. They will be checked for plagiarism through turnitin.com

Grading policy: University policy regarding grades and grading systems is available at:
<http://catalog.arizona.edu/201415/policies/grade.htm>

Grade Distribution for this Course:

- A: 90 – 100%
- B: 80 – 89%
- C: 70 – 79 %
- D: 60 – 69 %
- E: > 60 %

I will, as a matter of policy, round up grades to the next letter grade if you are within 1% (e.g. 79.1 to 80%, but **not** 78.9 to 80%)

Late work policy: As a rule, work will not be accepted late except in case of documented emergency or illness. You may petition the professor in writing for an exception if you feel you have a compelling reason for turning work in late, but these requests must be made before the end of the semester.

Attendance policy: The UA’s policy concerning Class Attendance and Administrative Drops is available at: <http://catalog.arizona.edu/2014-15/policies/classatten.htm>

The UA policy regarding absences on and accommodation of religious holidays is available at <http://deanofstudents.arizona.edu/policies-and-codes/accommodation-religious-observance-and-practice>.

Absences pre-approved by the UA Dean of Students (or Dean designee) will be honored. See: http://uhap.web.arizona.edu/chapter_7#7.04.02

Participating in course and attending lectures and other course events are vital to the learning process. As such, regular attendance in all online activities and discussions is required. Students who miss class due to illness or emergency are required to bring documentation from their healthcare provider or other

relevant, professional third parties. Failure to submit third-party documentation will result in unexcused absences.

Course conduct: You are expected to be respectful toward your fellow students and myself. This course covers some controversial and emotionally charged issues. If you are not comfortable rationally discussing them in a thoughtful and respectful way, you should not take the course.

The Arizona Board of Regents' Student Code of Conduct, ABOR Policy 5-308, prohibits threats of physical harm to any member of the University community, including to one's self. See: <http://policy.arizona.edu/threatening-behavior-students>.

Accessibility and accommodations:

It is the University's goal that learning experiences be as accessible as possible. If you anticipate or experience physical or academic barriers based on disability, please let me know immediately so that we can discuss options. You are also welcome to contact Disability Resources (520-621-3268) to establish reasonable accommodations. For additional information on Disability Resources and reasonable accommodations, please visit <http://drc.arizona.edu/>.

If you have reasonable accommodations, please plan to meet with me by appointment or during office hours to discuss accommodations and how my course requirements and activities may impact your ability to fully participate.

Student code of academic integrity:

Students are encouraged to share intellectual views and discuss freely the principles and applications of course materials. However, graded work/exercises must be the product of independent effort unless otherwise instructed. Students are expected to adhere to the UA Code of Academic Integrity as described in the UA General Catalog.

See: <http://deanofstudents.arizona.edu/codeofacademicintegrity>
<http://deanofstudents.arizona.edu/academic-integrity/students/academic-integrity>

Confidentiality of student records: <http://www.registrar.arizona.edu/ferpa/default.htm>

Subject to change proviso: Information contained in the course syllabus, other than the grade and absence policy, may be subject to change with advance notice, as deemed appropriate by the instructor.

Schedule of Activities and Due Dates

Introduction — What are the Limits of Legitimate Lawmaking?

January 11 (Wed): Syllabus Lecture 1.1, Quiz 1, Discussion 1

PART I: Freedom of Choice and Action

Module 1: The Harm Principle

January 13 (Fri): Mill, *On Liberty*, Chapter 1 Lecture 1.2, Quiz 2, Discussion 2

January 18 (Wed): Mill, *On Liberty*, Chapter 3 (Recommended: *On Liberty*, Chapter 4-5) Lecture 1.3, Quiz 3, Discussion 3

Module 2: The Paternalism Principle

January 20 (Fri): Dworkin, “Paternalism,” 209-23, and “Paternalism: Some Second Thoughts”
Lecture 2.1, Quiz 4, Discussion 4

January 25 (Wed): Thaler and Sunstein, *Nudge*, excerpts
Lecture 2.2, Quiz 5, Discussion 5

Module 3: A Market in Kidneys?

January 27 (Fri): Kristof, “Psst! Sell Your Kidney?”; Finkel, “This Little Kidney Went to Market”;
Smith, “On Death Row, China’s Source of Transplants”
Lecture 3, Quiz 6, Discussion 6

Module 4: Arguments Against Physician-Assisted Suicide

February 1 (Wed): *Washington v. Glucksberg* Lecture 4.1, Quiz 7, Discussion 7

February 3 (Fri): Kamisar, from “Euthanasia Legislation: Some Non-Religious Objections” Lecture
4.2, Quiz 8, Discussion 8

Module 5: Arguments for Physician-Assisted Suicide

February 8 (Wed): Dworkin et al., “Assisted Suicide: The Philosophers’ Brief”; Sections from
Oregon’s Death With Dignity Act
Lecture 5, Quiz 9, Discussion 9

First essay (but no assignment) due February 12 (Sunday)

Module 6: Legal Moralism

February 15 (Wed): Devlin, “Morals and the Criminal Law” Lecture 6.1, Quiz 10, Discussion 10
34

February 17 (Fri): Hart, “Social Solidarity and the Enforcement of Morality,” 248-251 & 256- 262
Lecture 6.2, Quiz 11, Discussion 11

PART II: Freedom of Expression

Module 7: Basics of the Law of Freedom of Speech

February 22 (Wed): *U.S. v. Progressive*; *Brandenburg v. Ohio* Lecture 7, Quiz 12, Discussion 12

Module 8: Theories of Freedom of Speech

February 24 (Fri): Mill, *On Liberty*, Chapter 2; Guttenplan, “Is a Holocaust Skeptic Fit to be a
Historian?” Lecture 8.1, Quiz 13, Discussion 13

March 1 (Wed): Meiklejohn, *Political Freedom*, excerpts; Redish, “The Value of Free Speech”;
Emerson, “Toward a General Theory of the First Amendment” Lecture 8.2, Quiz 14, Discussion 14

Module 9: Hate Speech

March 3 (Fri): *Collin v. Smith*; *R.A.V. v. City of St. Paul* Lecture 9.1, Quiz 15, Discussion 15

March 8 (Wed): Waldron, *The Harm in Hate Speech*, Ch. 4; Stevens, “Should Hate Speech be
Outlawed?”

Lecture 9.2, Quiz 16, Discussion 16

PART III: Punishment

Module 10: The Justification of Legal Punishment

March 10 (Fri): Pincoffs, “Classical Retributivism” Lecture 10.1, Quiz 17, Discussion 17

SPRING BREAK

March 22 (Wed): Brandt, “The Utilitarian Theory of Criminal Punishment” (Recommended: Rawls, “Two Concepts of Rules”, 4-13)

Lecture 10.2, Quiz 18, Discussion 18

Second essay (but no assignment) due March 26 (Sunday)

Module 11: Death Penalty Law

March 29 (Wed): *Gregg v. Georgia*; *McCleskey v. Kemp* Lecture 11, Quiz 19, Discussion 19

Module 12: Arguments for the Death Penalty

March 31 (Fri): van den Haag, “In Defense of the Death Penalty: A Practical and Moral Analysis”

Lecture 12, Quiz 20, Discussion 20

Module 13: Arguments against the Death Penalty

April 5 (Wed): Bedau, “Capital Punishment, Retributive Justice, and Social Defense”; Death Penalty Information Center, Fact Sheet (Recommended: Grann, “Death by Fire”) Lecture 13, Quiz 21, Discussion 21

PART IV: Obedience and Civil Disobedience

Module 14: Is There an Obligation to Obey the Law?

April 7 (Fri): Rawls, “Legal Obligation and the Duty of Fair Play” Lecture 14.1, Quiz 22, Discussion 22

April 12 (Wed): Smith, “Is there a Prima Facie Obligation to Obey the Law?” Lecture 14.2, Quiz 23, Discussion 23

April 14: Nothing due

Module 15: Is Civil Disobedience Ever Justifiable?

April 19 (Wed): King, “Letter From a Birmingham Jail”; Rawls, “Civil Disobedience” Lecture 15, Quiz 24, Discussion 24

April 21: Nothing due

Final paper (but no assignment) due May 3 (Wed)