

PHL 271: Law & Morality

Course Information

Instructor

Instructor: Jeremy Davis

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Office Hours: Mondays, from 1-2:30 PM in JHB 419

Course Description

This course is an introductory survey of some issues at the intersection between law and morality. Our primary focus will be on the question of when laws are morally justified. In the first half of the course, we will look at several theoretical accounts on the limits of law. The second half of the course will look at more concrete examples of the clash between law and morality, such as religious liberty, hate speech, and pornography. Along the way, we will consider some cases from both Canadian and American law that illuminate these moral questions.

This course will confront several difficult and often controversial topics, such as pornography, hate speech, and religion. Furthermore, since we are concerned with arguments for and against specific ideas, we will often seriously consider views that many will intuitively find repugnant or offensive. Students are advised to read this syllabus carefully and prepare for topics that may be uncomfortable, and to alert the instructor to any specific foreseen issues.

Course Texts

All of the required readings for this course are free to **read** online, via the University's library reserves. However, in certain cases, the readings are not available for **download**, or there are limits on how much can be downloaded at a given time. The three cases where I am aware of this being an issue are with respect to *Why Tolerate Religion?*, by Brian Leiter; *The Hateful and the Obscene*, by Wayne Sumner; and *The Harm in Hate Speech*, by Jeremy Waldron. Students will likely find it worthwhile to purchase Leiter's book (which has been ordered and is available at the campus bookstore), and may also find Sumner's book a worthwhile purchase

(although it has not been ordered for this course, there may nevertheless be copies available at the bookstore or via Amazon.ca). We will only read one chapter of Waldron's book, which should be available for download without issue; however, some students writing on that topic may be interested in reading other parts of the book—in which case, purchasing it may be worthwhile (again, no copies were ordered for this course, though there may be some at the bookstore or available online).

Evaluation

All assignments will be graded in accordance with the University's standards, which can be found here: <http://www.writing.utoronto.ca/advice/general/grading-policy>.

Argument Analysis (15%) — Due May 20th by 11:59 PM

This is a very short essay (500 words) in which you will explain the structure of a particular argument and briefly assess it. The task is to show that you understand how to read an argument, identify its premises, and assess its soundness. Further instructions will be provided closer to the due date. (N.B. This assignment is due early in the term, so students unfamiliar with how to approach this assignment are advised to contact the instructor or TA as early as possible.)

1800-Word Essay (35%) — Due June 10th by 11:59 PM

This essay will involve answering one of several prompts (to be distributed a few weeks prior) concerning one of the topics on the syllabus. For each question, students will be required to implement an 'extra' reading (listed on assignment instructions) for that topic. The goal here is to show that you can encounter an argument on your own, incorporate it into a larger philosophical discussion, and assess it accordingly. Further instructions will be provided closer to the time.

Final Exam (35%) — See A&S Exam Schedule

The final exam will be made up of a mix of short answer and essay questions, and will cover material from the entire semester. A very schematic study guide will be provided to students in advance of the exam to aid their study.

Debates & Participation (15%)

The final 15% of the course mark will be determined by a combination of your participation in our three debates (10%) and your overall participation, both in lecture and tutorials (5%).

The debates will take place on **May 30th**, **June 6th**, and **June 16th**. These debates will be Oxford-style, which means they will be 2-versus-2 debates, on a motion to be given ahead of time. Debaters will be given a short time to make opening statements and arguments, and then we will open up the floor for general

questions from the audience. Those in attendance will vote prior to and following the debate, and the team with the greatest positive change will be declared the winner.

Sign-ups for the debaters will begin at the end of the first week of class. Students are not required to speak at the debates—in fact, there are not enough spaces for all students to do this. Those who are not involved in the debates will be required to submit a short summary of the content of the debate, as well as a reflection on which side the student found persuasive, and perhaps an articulation of any lingering questions. Students who participate in one of the three debates will be exempt from all of these assignments.

The remaining participation grade will be determined by your engagement both in lecture and tutorial.

Course Policies

Readings

All readings will be posted on Blackboard, or else instructions will be made available for how to find them. Students are expected to have completed the readings before the start of each lecture.

Email

All emails about course business must be directed to the course instructor, rather than the TA. I will strive to answer emails promptly, but you are welcome to follow up if you haven't heard from me after two days. Emails should either concern administrative matters about which you are unclear, or else very brief philosophical questions. Longer philosophical discussions or questions ought to be addressed in class, in office hours, either with the instructor or your TA, or in tutorials.

Technology

You are **not** permitted to use your cell phones during lecture or tutorials. This is very distracting to your fellow students as well as to your instructor and TAs. Students caught using their cell phones during lecture will be asked to leave.

You are **strongly discouraged** from using your laptop in lecture and tutorials. There is overwhelming evidence that students (as well as instructors) are inevitably distracted by laptops. Moreover, taking notes by hand has been shown to be much more effective than taking notes on a computer.¹ Note that this is **not a blanket prohibition** on computers. I realize that many students will, for one reason or another, require the use of a computer during lecture. Students who plan on using laptops are encouraged to be aware of the possibility of distraction—both for themselves, for their colleagues, and for me.

¹See: www.vox.com/2014/6/4/5776804/note-taking-by-hand-versus-laptop

Deadlines, Lateness, Extensions, etc.

Papers are due **before midnight** (i.e. 11:59 PM on the day listed), and must be submitted through Blackboard (no paper copies will be accepted). Late assignments will be accepted **up to one week** after the due date, but a **4% late penalty** will be applied per day (including weekends). No assignments will be accepted after that date.

Extensions will be granted **only** in cases of serious illness or unforeseen conflicts. (Note that other coursework, work scheduling, and poor time management do not qualify as unforeseen conflicts.) Extensions must be requested (via email) no later than **prior** to the due date. Any requests made after the deadline will be denied. All requests must be sent to the instructor, not the TA.

Academic Integrity

You are expected to submit only your own work. Students caught plagiarizing will fail the assignment, and further university sanctions may also be applied. If you are unfamiliar with the guidelines surrounding academic integrity, you are advised to visit: www.utoronto.ca/academicintegrity, or ask the instructor or TA for further information.

Turnitin.com Notice (as per University guidelines)

Normally, students will be required to submit their course essays to Turnitin.com for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site.

Students using Turnitin.com for the first time will be required to set up a Turnitin.com account. Information may be found here: <http://teaching.utoronto.ca/ed-tech/teaching-technology/turnitin/a-guide-for-students>

Students are permitted, under the University's conditions of use, to opt-out of using Turnitin. If a student chooses not to submit their assignment through Turnitin, the student must contact the instructor as soon as possible to find alternative arrangements to check their work as rigorously. Students will not be penalized for choosing to opt out.

Please visit teaching.utoronto.ca/ed-tech/teaching-technology/turnitin/how-it-works for more information.

Course Schedule

Mon, May 9: Introduction to Course

1. *No Readings Assigned*

Wed, May 11: Harm Principle

1. J.S. Mill, *On Liberty*, ch. 1 (35 pp.)
2. *Case: R. v. Marmo-Levine*
3. *I. Berlin, “Two Concepts of Liberty” (32 pp.)

Mon, May 16: Critiques & Expansion of Mill

1. C. MacKinnon, “The Liberal State” (10 pp., plus notes)
2. J. Feinberg, “Offensive Nuisances”, from *Offense to Others* (36 pp.)

Wed, May 18: Religious Toleration I

1. J. Locke, “Letter Concerning Toleration” (p. 7-53)

FRIDAY, MAY 20: First Assignment Due

Wed, May 25: Religious Toleration II

1. B. Leiter, *Why Tolerate Religion?*, chs. 1–3 (63 pp.—but small type and large margins!)
2. *Case: Trinity Western v. BCCT*
3. *Case: Multani v. Commission Scolaire*

Mon, May 30: Religious Toleration III

1. J. Raz, “Autonomy, Toleration, and the Harm Principle” (23 pp.)
2. *Case: Burwell v. Hobby Lobby Stores, Inc.*
3. **DEBATE (Topic: Religious Toleration; Motion: TBD)**

Wed, June 1: Hate Speech I

1. “The Case for Hate Speech”, *The Atlantic*, Nov. 2013
2. T. Scanlon, “A Theory of Freedom of Expression” (24 pp.)
3. * “When Campus Hate Speech Rules go Further than the Law”, *The Atlantic*, Nov. 2015
4. * “Motion: Free Speech is Threatened on Campus”, Intelligence Squared US Debate (podcast, ~1 hr.)

Mon, June 6: Hate Speech II

1. L.W. Sumner, “The Balancing Act” (chapter 3 of *The Hateful and the Obscene*) (38 pp.)
2. J. Waldron, “Protecting Dignity or Protection from Offense?” (chapter 5 of *The Harm in Hate Speech*) (38 pp.)
3. *Case: Snyder v. Phelps*
4. *Case: R.A.V. v. St. Paul*
5. **DEBATE (Topic: Hate Speech; Motion: TBD)**

Wed, June 8: Hate Speech & Pornography I

1. L.W. Sumner, “In Harm’s Way?” (from *The Hateful and the Obscene*) (40 pp.)
2. R. Dworkin, “Postscript on Pornography”, from his “Lord Devlin and the Enforcement of Morals” (3 pp.)
3. *R. Dworkin, “Women and Pornography” (6 pp.)

FRIDAY, June 10th: ESSAY DUE

Mon, June 13: Hate Speech & Pornography II

1. C. West, “The Free Speech Argument against Pornography” (33 pp.)
2. *Case: R v. Butler (1992)*
3. R. Langton, “Pornography and Free Speech” (2 pp.)
4. **DEBATE (Topic: Pornography; Motion: TBD)**

Wed, June 15: Recap & Review

1. *No readings assigned; students are asked to begin final exam preparation, and come to lecture with questions*

Final Exam: See A&S Exam Schedule