

PHL271: Law and Morality

Course Description

Law and morality both tell people what they ought to do. While they often coincide with one another, occasionally they do not. On the one hand, it is legally impermissible, but probably morally permissible, to jaywalk through an empty intersection; on the other hand, it is legally permissible, but probably morally impermissible, to break a promise to a friend. While most philosophers think that this shows that law and morality are distinct from one another, many of them still think that law and morality still have some necessary relationships to one another. In this course, we will consider three of these supposed relationships, which reflect the three central roles occupied by persons in legal systems. First, *judges* may wonder whether they can or must apply moral tests to establish whether someone has broken the law. Second, in crafting laws, *legislators* may wonder whether the immorality of some conduct permits or even requires them to criminalize it. Finally, *citizens* may wonder whether they have a moral duty to obey the law or even to resist it.

Teaching Team

Instructor: Steve Coyne – he/him

Drop-in Office Hours (in person): Monday 4:30-5:30pm, BA4202A. Note that the room is behind a locked door with a doorbell for access. Press the doorbell and I will come get you.

Drop-in Office hours (Zoom): Monday 10:10-11am. Please see Quercus homepage for the link.

E-mail: For written communication, please contact me at steven.coyne@mail.utoronto.ca (and not Quercus, which I don't regularly check.) Make sure to identify the course (PHL271) in the title of your e-mail. I make every attempt to respond to administrative questions (e.g. about course registration, accommodations, etc) within one working day.

Teaching Assistants:

Qizhou Cui - qizhou.cui@mail.utoronto.ca (tutorials 5103, 5202, 5304)

Matt Lam - matthewalex.lam@mail.utoronto.ca (tutorials 5102, 5201, 5302)

Yi-Cheng Lin - yizheng.lin@mail.utoronto.ca (tutorials 5101, 5203, 5301)

Julian Sheldon - julian.Sheldon@mail.utoronto.ca (tutorials 5104, 5204, 5303)

Course Flow

This is an in-person course. We meet on Mondays from 6-8PM. Questions and comments are very welcome during lectures. To accommodate people who need to miss lecture, I will post audio recordings of our lectures within 24 hours. However, you should plan to come to lectures whenever possible – it will be difficult to succeed in this course without generally digesting the material in the context of lecture.

You will have one hour of tutorial scheduled on Wednesday evening led by a graduate student TA. Though we will not officially check attendance at these tutorials, you need to attend several of them to earn participation credit. In those tutorials, you will critically examine and discuss the material discussed in lecture, in a way oriented to prepare you for the final exam.

Readings

All readings will be accessible through Quercus or online library access. You may find the readings for this course to be dense and difficult, but don't worry - this is a normal experience, even for people with lots of experience studying philosophy. It is often a good idea to read a paper at least twice: once to get an overall sense of the thesis and structure of the arguments, and once to understand the finer details of those arguments.

Student Success

Like all second-year philosophy courses at the University of Toronto, our course material is challenging and the standards on assignments and tests are high. But I want you to profit from the course and to succeed in it. You are very welcome to come and chat with me after class or during my office hours. I'm happy to answer questions or repeat points made in lecture, discuss ideas about essays, and more generally talk with you about how your semester is going. Your TAs will also be available to assist you with your essays and I encourage you to take full advantage of their expertise.

Evaluation

Course Component	Percentage of Grade	Date(s) due
Written Assignment 1	30%	October 20
Written Assignment 2	30%	November 19
Final Exam	35%	Scheduled by registrar
Tutorial Contributions	5%	In tutorial

Note that all assignments should be submitted through Quercus through the corresponding links under 'Assignments'. You must submit all assignments as a file (not a link), in .doc, .docx, or .pdf (not .pages or any other format). Assignments that do not fulfill this requirement may be treated as late.

Written Assignments: You will complete two written assignments focused on applying our course material to Canadian Supreme Court cases. These written assignments will be graded using a rubric.

Final Exam: There will be a registrar-scheduled final exam, consisting of multiple-choice questions and essay questions. The essay questions will be drawn from the questions presented at the end of each lecture and discussed in tutorial.

Tutorial Contributions: You are required to make verbal discussion contributions to at least five of your tutorial sessions, worth 1% each (up to a maximum of 5%). Your contribution should show some engagement with the questions raised by your TA or (better yet) one of your classmates' prior points. This might take the form of a developed question, an objection, or so on. Requests to repeat material, repetitions of points by other students, or questions about class mechanics don't count for points. Please observe the usual norms of class etiquette. Be civil, make sure you raise your hand before making a contribution, and wait for your TA to acknowledge you and give you the floor.

Your TA will be keeping track of your contributions. Note that you can only receive credit for a maximum of one contribution per tutorial session, and you will only receive credit for that contribution if you are present for the whole session in question (so don't make your point and then leave right after, please). There will be no opportunity for alternative participation credit apart from very rare cases – e.g. verified multi-week absences and verified accessibility considerations that prevent participation. You are responsible for making sure that you contribute throughout the semester (e.g. if you don't participate at all

in tutorials 1-4, contribute in tutorials 5-7, and then are absent from tutorials 8 and 9, you will not receive an opportunity for more credit). That said, we strongly encourage you to participate more frequently than this! We hope that this system for awarding participation credit will give you the proper spark to start a lively, productive discussion about the topics that will be covered on your final exam.

Your TA will do their best to hear from a variety of voices during tutorial. Occasionally you might have a point that we do not have time to discuss, or someone else gets to your point before you do – we know this can be frustrating, but unfortunately these are unavoidable limitations on discussions in a medium size tutorial. Try to get in early and have back-up points planned!

Bonus Tutorial Marks: One or two bonus points to final grades may be awarded to students who contribute to class discussion in an exceptionally active, highly thoughtful manner.

Assignment Policies

Late Penalties on Assignments: Without an extension or an accommodation, late written assignments will incur a 1% penalty for every day that they are late, up to a maximum of 7% out of the assignment score. Without an extension or accommodation, no written assignments will be accepted after they are seven days late. If you have an extension or accommodation for seven days or less from the original due date, you must submit your assignment within the standard seven-day window in order for it to be accepted. (For example, if you have a five-day extension, and you submit it six days late, it will receive 1% late penalty. If you submit have a five-day extension, and you submit it eight days late, it will not be accepted.) If you have an extension or accommodation for longer than seven days from the original due date, you must submit your assignment on the new due date in order for it to be accepted.

Extensions: For an extension on a written assignment, and it is before the deadline, get in touch with **your TA**. We are aware that students often run into unexpected difficulties, and as such, our policy is to grant extensions as long (a) as you can provide a plausible reason for why you need an extension, (b) the extension is of reasonable length (1-2 days for minor matters, a week for larger matters), and (c) you ask for it reasonably in far advance of the deadline. (Note, however, that TAs are not allowed to grant extensions after the deadline. At that point, it is a matter of accommodation, which has much stricter requirements and must go through the professor. See below.)

Accommodations: If you require an accommodation for a deadline that you have missed because of an illness, severe personal crisis, etc, please get in touch with **the instructor** by e-mail (steven.coyne@mail.utoronto.ca) as soon as possible after the deadline. You must complete a declaration of absence on ACORN or supply a verification of illness (VOI) form in order to be eligible for an accommodation.

Regrade Policy: If you do not understand why your test or assignment received the grade that it did, you should raise this with your TA by e-mail or at office hours. Due to time limitations, the TA can sometimes only comment on some of the aspects in which your work could have been improved, and in-person discussion with them can give you more feedback on these aspects of your paper. If after discussion with your TA, you still disagree with their assessment, you may send the graded paper to the instructor by e-mail within seven days of the assignment being returned. After reading the paper and TA comments, I may judge that the grade should be higher, lower, or the same. Please review the rubric carefully before asking for a regrade from me.

Note: The ‘total’ column in the grades section on Quercus does not reflect your current or total grade in the course.

Accessibility

If you have a disability or health consideration that may require accommodation, please get in touch with me and Accessibility Services (www.accessibility.utoronto.ca).

Course Conduct and Academic Integrity

I encourage you to work together in this course. You will profit more from the course if you study together for the test, discuss your ideas for your essays with one another, and critique one another's essays once you have written them. However, as a matter of academic integrity, you must follow these rules (as well as any others in our university's academic integrity policy, available at <https://www.academicintegrity.utoronto.ca/>):

- 1) You are expected to be the author of your own work.
- 2) The use of translation software (apart from individual words or short phrases) or the use of large-scale language models (e.g. ChatGPT) is not permitted.
- 3) Any word-for-word use of another person's phrasing (including my own) should be put in quotation marks or set out as a distinct quotation paragraph with a page number or lecture citation (e.g. "(Coyne, Lecture 5)").
- 4) Any use of another person's phrasing or ideas, even if you do not use their exact words, should be given a page number citation. (e.g. "Friedman argues that the social responsibility of a firm is to increase its profits. (Friedman, 23)"). You should be particularly vigilant about this if you choose to use external sources apart from the course readings or lectures. If you use any external sources, you must provide a bibliography with enough information for the reader to find it.

If you have any questions about these rules, or other elements of the university academic integrity policy, please contact me by e-mail *before* you submit your assignment (steven.coyne@mail.utoronto.ca). I am more than happy to answer them.

Out of respect for your intellectual work and fairness to the class, I take academic integrity very seriously and make strenuous efforts to verify that my students are respecting it. I forward all suspected violations of academic integrity to administration, who may impose a serious penalty on you.

Normally, students will be required to submit their course essays to the University's plagiarism detection tool 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 tool's reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of this tool are described on the Centre for Teaching Support & Innovation web site (<https://uoft.me/pdt-faq>). If you do not wish to submit your work to the tool, that is fine, but you will be required to meet with me to discuss and answer questions about your work.

Course Schedule and Readings

(Readings subject to change.)

Week 1 (September 11) <i>Textualism</i>	<ul style="list-style-type: none">• Antonin Scalia, "Common-Law Courts in a Civil Law System: The Role of United States Federal Courts in Interpreting the Constitution and Laws" (excerpts)
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Week 2 (September 18) <i>The Command Theory of Law</i>	<ul style="list-style-type: none"> HLA Hart, <i>The Concept of Law</i>, excerpts 1 and 2 <p>Tutorials begin September 20</p>
Week 3 (September 25) <i>The Rule-Based Theory of Law</i>	<ul style="list-style-type: none"> HLA Hart, <i>The Concept of Law</i>, excerpt 3 H.L.A. Hart, "Positivism and the Separation of Law and Morals" (excerpt)
Week 4 (October 2) <i>Dworkin's Criticisms of Positivism</i>	<ul style="list-style-type: none"> Ronald Dworkin, "Model of Rules I" (excerpt) Ronald Dworkin, "Law's Ambitions for Itself" Tutorials 5104, 5204, 5303 (Julian's) cancelled. <p>Essay 1 instructions released on October 2</p>
October 9	<ul style="list-style-type: none"> No lecture: Thanksgiving! Most tutorials cancelled, <u>except 5104, 5204, 5303 (Julian's tutorials)</u>
Week 5 (October 16) <i>Common Good Constitutionalism & The Rule of Law and Discretion</i>	<ul style="list-style-type: none"> Adrian Vermeule, "Common Good Constitutionalism" Joseph Raz, "The Rule of Law and its Virtue" Podcast ("Discretionary Powers", HiPhi Nation): https://hiphination.org/season-4-episodes/s4-episode-2-police-discretion-may-9th-2020/ <p>Written Assignment 1 due October 20</p>
Week 6 (October 23) <i>Legal Moralism</i>	<ul style="list-style-type: none"> Patrick Devlin, "Morals and the Criminal Law" (excerpt) Ronald Dworkin, "Lord Devlin and the Enforcement of Morals" (excerpt)
Week 7 (October 30) <i>The Harm Principle</i>	<ul style="list-style-type: none"> John Stuart Mill, <i>On Liberty</i>, chapter 1 Wayne Sumner, "In Harm's Way?" <p>Essay 2 instructions released on October 30 Written Assignment 1 returned November 4</p>
November 6	<ul style="list-style-type: none"> No lectures or tutorials: Reading Week!
Week 8 (November 13) <i>Feminist Challenges to the Harm Principle</i>	<ul style="list-style-type: none"> Catherine MacKinnon, <i>The Liberal State</i> (excerpts) Rae Langton, "Speech Acts and Unspeakable Acts" <p>Written Assignment 2 due November 19</p>
Week 9 (November 20) <i>Punishment & the Duty to Obey the Law (part 1)</i>	<ul style="list-style-type: none"> Joel Feinberg, "The Classic Debate" Podcast ("Justice and Redemption", HiPhi Nation): https://hiphination.org/season-4-episodes/s4-episode-6-justice-and-retribution-june-6th-2020/ MBE Smith, "Is there a Prima Facie Duty to Obey the Law?" (pages 950-959)
Week 10 (November 27) <i>The Duty to Obey the Law (part 2) & Civil Disobedience</i>	<ul style="list-style-type: none"> MBE Smith, "Is there a Prima Facie Duty to Obey the Law?" (pages 959-976) Martin Luther King, "Letter from Birmingham Jail" John Rawls, "The Definition and Justification of Civil Disobedience" <p>Last tutorials on November 29</p>
Week 11 (December 4) <i>Review</i>	<ul style="list-style-type: none"> Review

