

Legal Philosophy and Reasoning
LGLS357 - CE
Fall 2009

Andrea Boggio

Syllabus

The purpose of this course is twofold.

- The class focuses on the study the relationship between law and morality. To what extent should legal systems take morality into account? Is law a branch of morality that is discoverable by reason and designed for the common good? Or is it merely the commands issued by whoever has the most power? We will look at a variety of ways this question manifests itself in legal theory and policy issues. An understanding of legal and ethical reasoning will emerge from analyzing various policy debates.
- This is a class about critical thinking. Both the logical reasoning that leads to the developing arguments and the outcome of the reasoning (the arguments) are analyzed and assessed. In particular, the class enables students to learn how to justify claims.

Course Objectives

This course introduces students to the following legal reasoning and analysis goals:

- 1: To define and describe key legal concepts, specific facts and critical issues in law and correctly apply this information to particular examples; and
- 2: To use conceptual legal models and theories to analyze legal events and case decisions; and
- 3: To apply law and legal theories to make convincing arguments supported by evidence and reasoning.

In particular, through their readings, discussions and class work, students will demonstrate an understanding of and ability to:

- a) utilize appropriate legal terminology in the analysis of social issues; (Goal 1)
- b) identify key concepts and assumptions of competing conceptual models and theories in philosophy of law and applied ethics; (Goal 2)
- c) apply customary legal reasoning methods by identifying legal issues and the relevant rules of law contained in case decisions an/or hypothetical scenario; (Goal 2)
- d) appropriately use legal analogies in their written and oral analyses of legal and social issues; (Goal 2)

- e) compare previous legal precedents and case rationales in analyzing current social problems; (Goals 2, 3)
- r) identify the relevant assumptions, evidence, methodology, and reasoning in analyzing social issues; (Goal 3)
- g) explain how assigned readings may reflect the historical context of the times, the cultures in which they were developed, or the personal ideology of the author distinguish between statutory and case law; domestic and international law; and federal and state legal systems; (Goal 3)
- h) ability to analyze a specific public policy issue; (Goal 4)

Instructor

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Office hours

- Tuesday | 10:30pm-12:00pm | 5:00pm-6:30pm
- Thursday | 10:30pm-12:00pm

Meeting Times

Hours: 6:30 pm - 9:05pm
Day: Tuesday
Room: _____

Course Materials

- Thomas A Mappes and Jane S Zembaty, *Social Ethics Morality and Social Policy*, 7th Edition, McGraw-Hill, 2006. ISBN: 9780073125459 (M&Z)
- Charles Fried, *Modern liberty: and the limits of government*, New York: W.W. Norton & Co., 2007. ISBN: 0393330451

Time Expectation

This is a three-hour course. The expectation is 9 hours of preparation outside class each week. The course is structured to require 9 hours of readings and project work per week

Attendance Policies

Class preparedness and participation are essential to success in this course. While there is no penalty for failure to attend a particular class, participation credits are occasionally given to students who are in class. Participation credits, along with homework, count towards “Homework and class participation” (see “Grading Policies”). Laptop use is permitted only for note-taking purposes.

Tests and Final Exam

There will be 4 tests and a final. The 4 tests are short (15 questions: true/false, multiple choice, and short essays), closed book/open notes, and non cumulative. They will be administered at the beginning of class and, after the test, class will resume ordinarily. The final is cumulative and open book/open notes. The test schedule appears in the “Semester schedule” tab. The questions will not address issues that have not been covered in class.

Grading Policies

The final grade will be based upon written work and class participation as follows:

1. Tests: 15% each (x4)
2. Final: 30%
3. Homework and class participation: 10%: Several assignments will be given throughout the semester, either online or in class. They are all pass/fail. Students who do not turn in the assignment by the due date or are not in class at the time the in-class assignment is given are not given credit. Furthermore, participation credits are occasionally given to students who are in class

Grades are scaled.

Tests

Test 1: September 22

Test 2: October 6

Test 3: October 27

Test 4: November 17

Final: _____

Semester schedule

<i>Week</i>	<i>Topic</i>	<i>Reading</i>
1	Logic and critical thinking Law and morality	Handout: Week 1 M&Z: Ch.1 (Roe v Wade)
2	Life: Abortion, Stem Cells, and the Legal Status of the Fetus	M&Z: Ch.1 Handout: Life (under Course Documents)
3	Theories of Moral Philosophy: Consequentialism (Utilitarianism) and Deontology Life: Liberty and Criminal Law The 4 justification of punishment The death penalty: law and ethics	Handout: Intro to Moral Philosophy (under Course Documents) M&Z: Ch.3 Fried: Ch.1
4	Liberty: Paternalism, and Rights Sex and Marriage	M&Z: Ch.4 (p.183-215) Fried: Ch.5 In re Marriage Cases (California Supreme Court) under "Liberty"
5	Liberty: Paternalism, and Rights Smoking/Drug Addition	M&Z: Ch.5: Liberty-limiting principles (pp.219-20); Mill's On Liberty (224-7) M&Z: Ch.6: Intro (272-7); The Ethics of Addiction (283-289); Permissible Paternalism (289-95) Handout: Liberty (under Course Documents) Video: Thank you for smoking
6-8	Liberty: Censorship, Harm, and Offense	Fried: Ch.4 M&Z: Ch.5: The Miller standard (p.218); A Question of Harm (pp.227-34); Feminism, Pornography, and Censorship (234-241); Liberalism and Campus Hate Speech (256-267); Corry v. Stanford University (267- 270) Video: This film is not yet rated Handouts: Censorship Scenarios (under Course Documents) Morse v. Frederick, 127 S. Ct. 2618 (2007) Weingarten et al. v. Board of Education of the City School District of the City of New York et al., SDNY 2008

9	Tensions between life and liberty: Euthanasia and Physician-Assisted Suicide:	Fried: Ch.3 M&Z: Ch.2 Introduction All readings Video: The bridge
10	Tensions between life and liberty: Terrorism, Human Rights, and Civil Liberties	M&Z: Ch.7: Introduction (316-321); Nathanson (322-333); Jaggar (333-341); Opinion in Korematsu (350-357); Waldron (357-368)
11-12	Justice: Equality vs. Liberty	Fried: Ch.2 M&Z: Ch.8: Introduction (371-376); Hospers (376-383); Nielsen (364-391) Exercise: "Win as much as you can" Exercise: "Who gets the liver?" Handout: Justice/Distribution of Goods (under Course Documents)
13	Property: World Hunger and Poverty International Law and Global Justice	M&Z: Ch.9: Introduction (435); Sen (450-456); Pogge (456-465) Handout: Rights: Property (under Course Documents) Hardin, The Tragedy of Commons Heller & Eisenberg, The Tragedy of Anticommons Fried: Ch.7
14	Human Rights Review and In-class cases	Handout: Global Justice (under Course Documents) Nickle: Making Sense of Human Rights Review of the course