

Course Syllabus
LWSO 591 Fall 2016 S01

INTEGRATIVE SEMINAR MORALITY, HUMAN RIGHTS AND THE LAW

Dr. Maureen S. Hiebert

Wednesdays 2:00pm - 4:45pm
MS 319

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Office: Social Science Building, room 722

Office Hours:

Mondays 11:00pm – 12:00noon

Thursdays 1:00pm – 2:00pm

Other times by appointment.

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COURSE DESCRIPTION AND OBJECTIVES

In this course we will critically analyze a central and contested theme in law and society: the connection between morality, human rights, and the law. The course will begin by examining a fundamental legal philosophical debate that deals with the place of morality in the law followed by an examination of how classical sociological thinkers such as Weber, Durkheim, and Weber analyze the role of law in society with respect to morality and rights. Part II of the course will switch to the way in which morality and human rights are played out in different kinds of law (constitutional law, criminal law, and international law) and how this more general debate is manifested in controversial issues such as limitations on rights, the rights the victim and the rights of the accused, the difference between “rights” and “desires”, how to define and operationalize in law the notion of “universal” human rights and how to punish “extraordinary human evil”. Part III will involve a series of classroom presentations of student papers in a mock academic seminar format.

The goal of this course is to bring together many of the themes explored throughout the Law and Society program. Students will engage at a more sophisticated level with forms of texts that they have already encountered in the program including legal-philosophy, socio-legal analyses, case law, and practical jurisprudence. By emphasizing close textual analysis and weekly classroom discussions of the assigned readings, students will continue to hone their analytical and verbal communication skills.

READINGS AND REQUIRED TEXTS

There are 4 required books for this course. The following books are available for purchase in the university Bookstore:

H. L. A. Hart, *Law, Liberty, and Morality* (First Edition) (Stanford University Press, 1963)

Patrick Devlin. *The Enforcement of Morals* (Liberty Fund, 1965).

Emile Durkheim, *On Morality and Society: Selected Writings*, Robert N. Bellah (ed.) (University of Chicago Press, 1973)

The Court and the Charter, Leading Cases, Thomas M.J. Bateman, Janet L. Hiebert, Rainer Knopff, Peter H. Russell (eds.) (Edmond Montgomery, 2008)

All of the other readings are available for students to look up on-line or as persistent links on the D2L course website.

REQUIREMENTS

Class Participation (*15% of final grade*)

Class participation will be evaluated on attendance (5%) and the quality and quantity of individual student's participation in our weekly discussions of the topics and readings (10%)

Mock Conference Presentation (*20% of final grade*)

The last two weeks of the course will be taken up with student presentations of their final papers. These presentations will take the form of a mock academic conference in which the students will present their research on panels with other students presenting on similar themes. Each presentation will be approximately 15 minutes in length.

First Paper (25% of final grade) due Wednesday, October 19, 2016 at 11:59pm to D2L digital dropbox

A short (5 pages double spaced) analytical paper in which the student will analyze an aspect of the moral foundations of law. More information to follow in an assignment sheet posted on D2L.

Second Paper (40% of final grade) due Wednesday, December 7, 2016 at 11:59pm to D2L digital dropbox

A research paper (approximately 15 pages double spaced) on a topic selected by the student in consultation with the professor. More information to follow in an assignment sheet posted on D2L.

It is the student's responsibility to keep a copy of each submitted assignment.

Final grades will be calculated based on the marks accumulated by students on each of the course requirements. Students do not need to pass each requirement to pass the course.

Registrar-scheduled Final Examination: NO

Late Penalty: - 5 percentage points for each day an assignment is late, including weekends.

GRADING SCALE

| | | | | | | | |
|----|----------|----|----------|----|----------|----|----------|
| A+ | 96-100 | B+ | 80-84.99 | C+ | 65-69.99 | D+ | 53-54.99 |
| A | 90-95.99 | B | 75-79.99 | C | 60-64.99 | D | 50-52.99 |
| A- | 85-89.99 | B- | 70-74.99 | C- | 55-59.99 | F | 0-49 |

SCHEDULE OF TOPICS AND REQUIRED READINGS *SUBJECT TO CHANGE*

WEEK 1: INTRODUCTION TO COURSE

September 14

No Readings:

PART I THE PHILOSOPHICAL AND SOCIOLOGICAL FOUNDATIONS OF MORALITY, RIGHTS AND THE LAW

WEEK 2: THE HART-DEVLIN DEBATE I: THE MORAL FOUNDATIONS OF LAW

September September 21

Readings:

Patrick Devlin, *The Enforcement of Morals*, chapters 1-3, 5, 7.

WEEK 3: THE HART-DEVLIN DEBATE II: QUESTIONING THE MORAL FOUNDATIONS OF LAW

September 28

*Readings:*H.L.A. Hart, *Law, Liberty, and Morality*, all chapters.**WEEK 4: CLASSICAL SOCIOLOGICAL INTERPRETATIONS OF MORALITY, HUMAN RIGHTS AND THE LAW**

October 5

Readings:

Emile Durkheim, Part 3, chapters 6, 7.

Max Weber, Part 5, chapter 11 “Power and Authority: When and Why do People Obey”; Part 6, chapter 17, “From Particularistic Law to Formal Legal Equality and the Rights of the Individual” (see D2L for link).

Karl Marx: *Selected Writings*, “On the Jewish Question” (see D2L for link).**WEEK 5: CRITICAL INTERPRETATIONS OF MORALITY, HUMAN RIGHTS, AND THE LAW**

October 12

*Readings:*Cheryl I. Harris, “Equal Treatment and the Reproduction of Inequality”, 69 *Fordham Law Review* Vol. 69, 2001, pp. 1753-83.Devon W. Carbado, “Colorblind Intersectionality”, *Signs: Journal of Women in Culture and Society*, Vol. 38 No. 4, 2013, pp. 811-845.

Val Napoleon and Hadley Friedland, “Indigenous Legal Traditions: Roots to Resistance”, pp. 1-20 (see D2L for link).

PART II: MORALITY, HUMAN RIGHTS, AND THE LAW: SELECTED TOPICS**WEEK 6: CONSTITUTIONAL LAW**

October 19

First paper due: October 19 at 11:59pm to D2L digital dropbox

Readings:

The Courts and the Charter, Part 1 Fundamental Freedoms, cases 3-8 (Big M. Drug Mart Ltd., Quebec Sign case, Keegstra, Butler, RJR-MacDonald Inc., Multani v Commission scolaire Marguerite-Bourgeoys); Part 8 Equality Rights, cases 25, 26, 30 (Andrews, Law, Same Sex Marriage Reference).

WEEK 7: CRIMINAL LAW

October 26

Readings:

The Courts and the Charter, Part 5, cases 13, 14, 16, 17 (B.C. Motor Vehicle Act, Oakes, Seaboyer, Daviault).

WEEK 8: HUMAN RIGHTS, SECURITY, AND THE “WAR ON TERROR”

November 2

Topic for second essay due*Readings:*

Kent Roach, “Must We Trade Rights for Security? The Choice Between Smart, Harsh, or Proportionate Security Strategies in Canada and Britain”, *Cardozo Law Review*, Vol. 75, No. 5., 2006, pp. 2151-2222.

Kim Lane Scheppele, “North American Emergencies: The Use of Emergency Powers in Canada and the United States”, *International Constitutional Law*, Vol. 4, No. 2, 2006, pp. 213-243.

Alan M. Dershowitz, “The Case for Torture Warrants”, 2002; available at: <http://www.alandershowitz.com/publications/docs/torturewarrants.html>

The Courts and the Charter, Part 5 case 20 (Charkaoui).

WEEK 9: INTERNATIONAL HUMAN RIGHTS

November 9

Readings:

Rhoda E. Howard-Hassmann, “The Second Great Transformation: Human Rights Leapfrogging in the Era of Globalization”, *Human Rights Quarterly*, Vol. 27, 2005, pp. 1-40.

Tony Evans, "International Human Rights Law and Power/Knowledge", *Human Rights Quarterly*, Vol. 27 (2005), pp. 1046-1068.

Paolo G. Carozza, "Subsidiarity as a Structural Principle of International Law", *The American Journal of International Law*, Vol. 29 (2003).

WEEK 10: PUNISHING HUMAN WRONGS

November 16

Readings:

Payam Akhavan, "Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?", *The American Journal of International Law*, Vol. 95, 2001, pp. 7-31.

Susan Thomson and Rosemary Nagy, "Law, Power, and Justice: What Legalism Fails to Address in the Functioning of Rwanda's Gacaca Courts", *The International Journal of Transitional Justice*, Vol. 5, 2011, pp. 11-30.

Hiromi Sato, "International Criminal Responsibility Concerning 'Control over an Organization and Command Responsibility *Lato Sensu*'", *International Criminal Law Review*, Vol. 12, 2012, pp. 293-300.

WEEK 11: DESTRUCTION AND RECONCILIATION: THE CANADIAN TRUTH AND RECONCILIATION COMMISSION (2015)

November 23

Readings:

Honouring the Truth, Reconciling the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada, 2015; Introduction, pp. 1-22; The History, pp. 37-134 (see D2L for link).

PART III: LWSO 591 MOCK ACADEMIC CONFERENCE

WEEK 12: PANELS I AND II

November 30

WEEK 13: PANELS III AND IV

December 7

Second paper due: Friday, December 7 at 11:59pm to the D2L digital dropbox

IMPORTANT POLICIES AND INFORMATION

Handing in Papers, Assignments

1. The main Sociology Department office does not deal with any course-related matters. Please speak directly to your instructor.
2. **Protection of Privacy:** The Freedom of Information and Protection of Privacy (FOIPP) legislation does not allow students to retrieve any course material from public places. Anything that requires handing back will be returned directly during class or office hours. If students are unable to pick up their assignments from the instructor, they provide the instructor with a stamped, self-addressed envelope to be used for the return of the assignment.
3. Final grades are not posted by the Sociology Department. They are only available online.

Ethics Research

Students are advised that any research with human subjects – including any interviewing (even with friends and family), opinion polling, or unobtrusive observation – must have the approval of the Faculty Ethics Committee. In completing course requirements, students must not undertake any human subjects research without discussing their plans with the instructor, to determine if ethics approval is required.

Academic Misconduct

Please refer to the website listed below for information on University of Calgary policies on Plagiarism/Cheating/Other Academic Misconduct: <http://www.ucalgary.ca/pubs/calendar/current/k-2-1.html>

Deferrals

When possible, please provide advance notice if you are unable to write an exam or complete/turn-in assignments on time. All requests for deferral of a course component due to health reasons must be accompanied by written documentation as outlined in the University Calendar and should be obtained while the student has the health issue rather than after recovery. Deferrals will be allowed in the following circumstances: illness, domestic affliction or religious conviction. Travel arrangements, misreading the syllabus, and scheduling conflicts with other classes or employment are not valid reasons for requesting a deferral. Deferrals will not be granted if it is determined that just cause is not shown by the student.

If you have missed a test for a legitimate reason, the instructor can require you to write a “make up” test as close in time to the original test as possible or can choose to transfer the percentage

weight to another course component. If the instructor schedules a “make up” test for you, its date and location will be at the convenience of the Department of Sociology.

Deferred Final Exam Form: Please note that requests to defer a Registrar scheduled final exam are dealt with through the Registrar’s Office. Further information about deadlines, and where paperwork should be taken, is available on the form, which can be found at: <https://www.ucalgary.ca/registrar/student-forms>

Deferred Term Work Form: Deferral of term work past the end of a term also requires a form to be filled out. It’s available at https://www.ucalgary.ca/registrar/files/registrar/deferred_termwork15_0.pdf

Once an extension date has been agreed between instructor and student, the form should be taken to the Faculty of Arts Program Information Centre (SS 110) for approval by an Associate Dean (Students).

Student Representation

The 2016-17 Students’ Union VP Academic is Alicia Lunz (suypaca@ucalgary.ca). The Faculty of Arts has four SU representatives who may be contacted at any of the following email addresses: arts1@ucalgary.ca, arts2@ucalgary.ca, arts3@ucalgary.ca, and arts4@ucalgary.ca. You may also wish to contact the Student Ombudsperson for help with a variety of University-related matters: <http://www.ucalgary.ca/provost/students/ombuds/role>

Emergency Evacuations

In the case of fire or other emergency evacuation of this classroom, please proceed to the assembly point at [*YOUR location*]. Please check these assembly point locations for all of your classes at: <http://www.ucalgary.ca/emergencyplan/assemblypoints>

Safewalk

The University of Calgary provides a “safe walk” service to any location on Campus, including the LRT, parking lots, bus zones, and campus housing. For Campus Security/Safewalk call 220-5333. Campus Security can also be contacted from any of the “Help” phones located around Campus.

Academic Accommodation

Students needing an Accommodation because of a Disability or medical condition should contact Student Accessibility Services (MC 293, phone 403-220-8237) in accordance with the Procedure for Accommodations for Students with Disabilities available at http://www.ucalgary.ca/policies/files/policies/student-accommodation-policy_0.pdf. Please provide academic accommodation letters to the instructor as early in the semester as possible and no later than two weeks after the course begins.