

Summer 2015
PHI/LAW 310, Section 801
ETHICS AND LAW

Location: John Jay College of Criminal Justice
524 West 59th St. / NB 1.100
New York, NY 10019

Time: Mondays and Wednesdays from 9:00 to 11:40

Instructor: Dr. Douglas Ficek

Email: dficek@jjay.cuny.edu

Office: If you would like to schedule an appointment with me, please speak with me before or after class, or send me an email with your relevant information.

Description: What is law, and how is it related to ethics? Is the law whatever we say it is through legislation, or are there principles – procedural if not moral – that must be respected? Should the law save us, in some instances, from ourselves, and what, in the end, is the nature of punishment? These are just some of the questions that we will explore in this course, which is designed to introduce you to some of the key questions in the philosophy of law.

In the first part of this course, we will consider three broad approaches to the philosophy of law: legal positivism, legal naturalism, and law as interpretation. We will then discuss the purpose of law in terms of the harm-to-others principle as well as the two main theories of punishment.

In the second part of this course, we will consider two things: critical race theory and the debate over abortion, both of which raise serious questions about the nature of law as something that is deliberated created by biased – if not bigoted – human beings.

Prerequisites: ENG 201 and PHI 231 (or permission of the instructor)

Requirements: This course is reading-intensive, and it is your responsibility to read the appropriate texts before class begins. To this end, I will be giving you several pop quizzes throughout the semester, all of which will be given at the beginning of class, so do not make lateness a habit. You may use your hand-written notes on these quizzes, so be prepared.

There will also be a final ten-page paper, the details of which I will give you very soon. You will have several options for the substantial assignment, so begin thinking about those issues that interest you the most.

Finally, there will be a comprehensive final exam on Monday, July 20th, which will consist of short answers and essays. This will be grueling experience, but I will allow you to use your notes for part of the exam, so, once again, be prepared.

Obviously, attendance is mandatory, and excessive absences (more than three) will negatively affect your final grade. Excessive tardiness will also affect your final grade. Bottom line: *If you cannot fully commit to this course, then you should not take it.*

Outcomes: John Jay College of Criminal Justice now requires that specific learning outcomes be specified on course syllabi. Here are three general learning outcomes for PHI 310: (1) Students will be able to identify and evaluate arguments; (2) students will be able to explicate key philosophical texts on the philosophy of law, critical race theory, and the abortion debate; and (3) students will be able

to discuss these texts critically both in class discussion and in their written work.

Caveats:

As an instructor, I am pretty easy-going. I do, however, insist upon a respectful atmosphere in the classroom. What does this mean? It means: no phone calls, no texting or Facebooking, no sleeping, and no ridiculously long bathroom breaks. If your phone does go off during class, you have a choice: You can either sing a song for the class, or I can assign an additional paper that everybody must do. This is not a joke.

Also, "My flash drive broke" has become the new "My dog ate my homework," and I will no longer accept it as an excuse for late or incomplete work. Please use www.dropbox.com (or something similar) to ensure the security of your written work.

Finally, I take academic dishonesty very seriously and will fail anyone who plagiarizes on any of his or her written work. Do not test me on this. Please review the official policy:

"Plagiarism is the presentation of someone else's ideas, words, or artistic, scientific, or technical work as one's own creation. Using the ideas or work of another is permissible only when the original author is identified. Paraphrasing and summarizing, as well as direct quotations, require citations to the original source.

Plagiarism may be intentional or unintentional. Lack of dishonest intent does not necessarily absolve a student of responsibility for plagiarism.

It is the student's responsibility to recognize the difference between statements that are common knowledge (which do not require documentation) and restatements of the ideas of others. Paraphrasing, summarizing, and direct quotation are acceptable forms of restatement, as long as the source is cited.

Students who are unsure how and when to provide documentation are advised to consult with their instructors. The library has free guides designed to help students with problems of documentation."

Accessibility:

Qualified students with disabilities will be provided reasonable academic accommodations if determined eligible by the Office of Accessibility Services (OAS). Prior to granting disability accommodations in this course, the instructor must receive written verification of a student's eligibility from the OAS which is located at L66 in the new building (212-237-8031). It is the student's responsibility to initiate contact with the office and to follow the established procedures for having the accommodation notice sent to the instructor.

Grading:

Attendance – 10%
Pop Quizzes – 20%
Final Paper – 30%
Final Exam – 40%

Texts:

Marc C. Murphy, *Philosophy of Law: The Fundamentals* (Malden: Blackwell, 2007); ISBN: 1405129603

Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction*, 2nd ed. (New York: New York University Press, 2012); ISBN: 0814721354

Christopher Kaczor, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice* (New York: Routledge, 2011); ISBN: 0415884691

The other required texts for this course are available at www.douglasficek.com. Download and print them out ASAP. *Always bring the appropriate texts to class.*

Schedule: May 27 – Course Introduction; *Philosophy of Law*, pp. 1-13

June 1 – *Philosophy of Law*, pp. 14-26; “A Positivist Conception of Law” by John Austin

June 3 – NO CLASS

June 8 – *Philosophy of Law*, pp. 26-35; “Positivism and the Separation of Law and Morals” by H.L.A. Hart

June 10 – *Philosophy of Law*, pp. 35-45; “Eight Ways to Fail to Make Law” by Lon Fuller; “The Natural Law Theory of St. Thomas Aquinas” by Susan Dimock

June 15 – “The Model of Rules” and “Law as Interpretation” by Ronald Dworkin

June 17 – NO CLASS

June 22 – *Philosophy of Law*, pp. 49-109; Selections from *On Liberty* by John Stuart Mill

June 24 – *Philosophy of Law*, pp. 112-142; Selections from *The Philosophy of Law* by Immanuel Kant

June 29 – *Philosophy of Law*, pp. 183-206; *Critical Race Theory*, pp. 1-42

July 1 – *Critical Race Theory*, pp. 43-98; “Whiteness as Property” by Cheryl I. Harris

July 6 – *Critical Race Theory*, pp. 99-154; *The Ethics of Abortion*, pp. 1-55

July 8 – *The Ethics of Abortion*, pp. 56-120

July 13 – *The Ethics of Abortion*, pp. 121-176

July 15 – Catch-Up

July 20 – FINAL EXAM