

PHIL 3305: Philosophy of Law

The University of Texas at El Paso

Semester: Fall 2016

Location: UGLC, Rm. 210

Times: Mon. & Wed., 1:30-2:50 pm

INSTRUCTOR: DR. CAROLINE T. ARRUDA

Office Hours:

- Mondays & Wednesdays, 3:00-4:00 pm
- Other times by pre-arranged appointment

Office: Worrell Hall, Room 306

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Course Description: The purposes of this course are threefold: first, to introduce students to competing accounts of the purpose, function and application of the law in the Anglo-American tradition; second, to compare and to evaluate competing accounts, with a particular focus on their coherence and soundness; third, to link these accounts with related issues in political philosophy, such as questions about the nature of liberty, property, contracts, and rights.

Course Objectives and Goals: The goals of this course are fourfold: first, students will cultivate our critical thinking skills in discussion and writing; second, students will come to understand and be able to explain the key concepts in philosophy of law; third, students will learn how to evaluate and to compare the various answers that the philosophers we will read this semester have provided to the foundational questions in philosophy of law; fourth, students will become familiar with the relevant case law that illustrates many of the issues that we will discuss in the course.

Required Texts (available at the University Bookstore):

1. *Philosophy of Law: Classic and Contemporary Readings*, eds. Larry May and Jeff Brown (2010. Wiley-Blackwell Publishers).
2. Online course reserves accessible through the Blackboard site for this course.

COURSE RESOURCES:

(THESE LINKS ARE ALSO AVAILABLE UNDER THE 'WEBLINKS' SECTION OF OUR BLACKBOARD SHELL)

1. Blackboard site for this course
2. The Writing Center
 - Located in Library 227
 - Visit their website at:
<http://academics.utep.edu/Default.aspx?alias=academics.utep.edu/writingcenter>
3. Jim Pryor's "Guidelines on Writing a Philosophy Paper":
 - <http://www.jimpryor.net/teaching/guidelines/writing.html>
4. Purdue University Library's Citation Guide:
 - <http://owl.english.purdue.edu/owl/section/2/>
5. UTEP's Instructional Support Services Module "How to Avoid Plagiarism":
 - http://dmc.utep.edu/home/index.php?option=com_content&view=article&id=390

MISCELLANEOUS NOTES:

1. Any changes made to this syllabus will be announced in class.
2. If you contact me by email, I need *at least twenty-four hours* to respond.
3. If you want me to read a paper draft, I need *at least one week* to do so. Please plan ahead.

Grading:

Class Participation: 10% of semester grade

Weekly Reading Summaries: 2% each x 10 summaries= 20% of semester grade

Take Home Essay Exam #1: 20% of semester grade

Take Home Essay Exam #2: 20% of semester grade

Term Paper: 30% of semester grade

COURSE ASSIGNMENTS & REQUIREMENTS

CLASS PARTICIPATION:

- Students are expected to complete the reading for each class meeting, and they must bring their books (or a photocopy of the reading assignment) to class.
- They will be called upon in class to answer questions about the reading and are expected to make thoughtful comments or to ask well-formulated questions. No question is too simple or naïve to ask!
- Students are expected to maintain a respectful demeanor in class, although they should feel free to criticize and question one another as long as it is done in a respectful fashion.

WEEKLY ARGUMENT SUMMARIES:

- You will write **ten** argument summaries over the course of the semester.
- Your argument summaries **MUST** cover the readings that are designated for argument summaries in the schedule on this syllabus (see below). In most cases, this means that your argument summary for a given class meeting will cover **more than one** reading assignment. Your summaries should be divided accordingly.
- Argument summaries must:
 1. **Be approximately 350-450 words in length per article/reading assignment, but no less than 300 words.**
 2. Be divided or organized by article under discussion.
 3. Cover the designated assigned readings for that class meeting.
 4. Explain the basic thesis of the article, the claims used to support the thesis and the ways in which these claims support the thesis.
 5. Use clear, simple, non-technical language.
 6. Explain any complicated or technical aspects of the main argument.
 7. Define/explain technical terms in simple language.
 8. Summarize any other major arguments that the author discusses, such as refutations of competing views **WHERE SPACE PERMITS.**
 9. **NOT USE ANY OUTSIDE SOURCES.**
 10. NOT cover every detail of the article.

11. NOT raise criticisms of the argument. Their function is to explain the argument.

12. Be uploaded to Blackboard by class time on the day that the article(s) in question will be discussed.

- Argument summaries will be graded on a Pass/Fail basis. If you meet the requirements above, you pass. If you don't, you fail. For the purposes of calculating your semester grade, this means that you either receive 100% or 0% on the assignment.

TAKE HOME SHORT ANSWER ESSAY EXAMS:

- You will write **two** take home short answer essay exams for this course. The essay topics will vary from those that ask you to explain a particular philosopher's view of, say, moral obligation to those that ask you to compare and to evaluate two philosophers' views on a question or concept.
- Please see the section "Directions for Accessing and Handing in Take Home Exams" on this syllabus.
- In addition to the specific directions for each take home exam, you will be expected to meet all of the requirements for a traditional essay, as specified in the "General Requirements for Writing Assignments" on this syllabus.
- The start dates (the dates on which the exams become available on Blackboard) and the due dates for each exam are listed on the schedule on this syllabus.
- The exams are as follows:
 - **Essay Exam #1:** You must write a minimum of **800 words per essay and you will write two essays**. This assignment is worth **20%** of the semester grade.
 - **Essay Exam #2:** You must write a minimum of **800 words per essay and you will write two essays**. This assignment is worth **30%** of the semester grade.

TERM PAPER:

You will write a **2000 word term paper** for this course from a list of assigned topics. See the schedule below for due dates. Also see the section 'General Requirements for Written Assignments' on this syllabus.

This paper will require that you do the following (**but please see the more detailed assignment directions posted on Blackboard**):

1. Choose a topic from a list that I provide (or get my approval for a topic).
2. **Read at least one *reputable*, academic source on the topic (e.g., a recent journal article on the topic in an academic journal) and **include it in your paper.****
3. Use the relevant assigned course readings in the paper.
4. See the specific assignment directions under the 'Assignments' tab on Blackboard.

Directions for accessing and handing in all assignments:

- You must hand in your papers under the ‘Assignments’ tab on the Blackboard site for this course.
- They will be submitted to ‘SafeAssign,’ a database that checks your papers and exams for plagiarism.
- The due dates for each essay exam or paper are listed on the schedule on this syllabus.
- I will return graded assignments through Blackboard, where you can **view the comments and the grade.**

Grading Scale:

- A 90-100%
- B 80-89%
- C 70-79%
- D 60-69%
- F 59% and below

COURSE POLICIES

CLASS PROTOCOL AND CONDUCT:

- Students are expected to arrive on time to class. **Any students arriving to class more than 10 minutes late or leaving more than 10 minutes early will be considered absent.**
- Students must turn off all cell phones, iPads, etc. during class. If your cell phone rings during class, you will be asked to leave.
- Students are expected to refrain from chatting with their neighbors during class. If you do so, you will be asked to leave.

LAPTOPS, RECORDING DEVICES AND CELL PHONES:

- Using laptops, your cell phone (including text messaging), audio or video recorders or other digital devices during class **is prohibited.**
- **Lectures cannot be recorded** (except in individual cases where I have granted permission).

MAKE-UP POLICY:

- Students will be allowed to make up missed work, including quizzes, ONLY in the case of documented family emergency or illness.

LATE ASSIGNMENTS:

- I will deduct one letter grade for each calendar day that an assignment is late.

EMAIL:

- All class email correspondences will be conducted exclusively through our UTEP email addresses.

BLACKBOARD:

- We will be using the Blackboard shell for our class throughout the semester.
- If you have not done so, you should learn how to use Blackboard.
- I will be using Blackboard to post course materials, including the syllabus, essay topics and your grades for your assignments.

ATTENDANCE POLICY:

- Attendance is mandatory.

- To account for emergencies, illness, among other possibilities, you are allowed **2 absences**.
- Any absence(s) after your allowed absence will result in the **deduction of one full letter grade from your semester grade**.
- If you miss **4 or more classes, you will fail this course**.

CENTER FOR ACCOMMODATIONS AND SUPPORT SERVICES (CASS) :

- “UTEP seeks to provide reasonable accommodations for all qualified individuals with disabilities, including learning disabilities. This university will adhere to all applicable federal, state, and local laws, regulations and guidelines with respect to providing reasonable accommodations as required affording equal educational opportunity. It is the student’s responsibility to register with the CASS Office in the East Union Bldg., Room 106 within the first two weeks of classes, and inform the faculty member to arrange for appropriate accommodations.”
- The CASS Office can also be reached in the following ways:
 Web: www.sa.utep.edu/cass
 Phone: (915) 747-5148 voice or TTY
 Fax: (915) 747-8712
 E-Mail: cass@utep.edu

ACADEMIC INTEGRITY:

- **UTEP’s Policy:** “Scholastic dishonesty (which includes the attempt of any student to present the work of another as his or her own, or any work which s(he) has not honestly performed, or attempting to pass any examination by improper means) is a serious offense and will subject the student to disciplinary action. The aiding and abetting of a student in any dishonesty is held to be an equally serious offense. All alleged acts of scholastic dishonesty should be reported to the Dean of Students for disposition. It is the Dean of Students’ responsibility to investigate each allegation, dismiss the allegation, or proceed with disciplinary action in a manner which provides the accused student his or her rights of due process.” See the Dean of Students office for further information at <http://www.utep.edu/dos/acadintg.htm>.
- **Students who violate the above policy will be reported to the appropriate academic office, may receive a zero or ‘F’ for the assignment in question and may receive a zero or ‘F’ for the semester.**

GENERAL REQUIREMENTS FOR ALL WRITTEN ASSIGNMENTS:

(IN ADDITION TO THE SPECIFIC REQUIREMENTS FOR EACH ASSIGNMENT)

- Essays should be written using a formal tone, must be edited for spelling and grammatical errors, and should include a clear thesis statement that answers the assigned question.
- Essays must make use of the relevant assigned course readings.
- *Reputable, academic sources* may be used **ONLY FOR THOSE ASSIGNMENTS WHERE DOING SO IS EXPLICITLY ALLOWED**.
- **Some assignments for this course prohibit the use of outside sources. Please follow this requirement where applicable.**
- Essays must have internal citations and include a formal bibliography. Both MLA and Chicago Style formatting are acceptable.

- Essays must be double-spaced, have a 1-inch margin, and be written using a 12 point font. They should include page numbers in the bottom right-hand corner of the page.
- Essays must include a word count underneath the author's name.
- Essays (excluding the in-class presentation) will be handed in on the Blackboard site for this course.

TENTATIVE SCHEDULE

Reading assignments are listed on the day for which they should be completed. All readings, unless otherwise listed, can be found in our anthology.

SCHEDULE

^ = Must be subject of weekly reading/argument summary

*= Reading available on Blackboard

Week 1: Introduction

8/22: Introduction to the course

8/24: Introduction to Philosophy of Law; Introduction to the Common Law Tradition in the U.S.

- “Philosophy of Law” by K. Himma, *Internet Encyclopedia of Philosophy*,
<http://www.iep.utm.edu/law-phil/#H4>
- “Comparing Federal and State Courts [in the United States]”,
<http://www.uscourts.gov/about-federal-courts/court-role-and-structure/comparing-federal-state-courts>
- “Stare decisis,” Legal Information Institute, Cornell University Law School,
https://www.law.cornell.edu/wex/stare_decisis
- “Supreme Court Procedures” (special focus on Writs of Certiorari),
<http://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/supreme-1>
- The U.S. Court System [Diagram],
<http://photos.state.gov/libraries/amgov/30145/ejs/1009ejchart.jpg>
- “The Common Law and Civil Law Traditions”, The Robbins Collection, School of Law, UC Berkeley,
<https://www.law.berkeley.edu/library/robbins/CommonLawCivilLawTraditions.html>

Week 2: Legal Reasoning

8/29: “Introduction” by Larry May and Jeff Brown

“An Introduction to Legal Reasoning” by E. Levi ^

8/31: "Remarks..." by K. Llewellyn

Week 3: Legal Reasoning

9/05: University Holiday (No Classes)

9/07: "Formalism" by F. Schauer (**Dr. Arruda's audio lecture available on Blackboard; no class meeting due to conference**) ^

Week 4: Legal Reasoning

9/12: "Incompletely Theorized Agreements" by C. Sunstein (**Guest Lecture, Prof. Pjevalica**) ^

9/14: Class canceled (Dr. Arruda away at conference)

Week 5: Jurisprudence

9/19: "A Positivist Conception of Law" by J. Austin*

9/21: "The Concept of Law" by H.L.A. Hart ^

-Take Home Short Answer Essay Exam #1 available on Blackboard at 9 pm

Week 6: Jurisprudence

9/26: "The Model of Rules I" by R. Dworkin ^

9/28: "Law as Justice" by M. S. Moore

-9/30: Take Home Short Answer Essay Exam #1 Due via Blackboard at 9 pm

Week 7: Jurisprudence

10/03: "The Economic Approach to Law" by R. Posner

10/05: "Critical Race Theory" by K. Crenshaw et al. ^

Week 8: Property

10/10: "Of Property" by J. Locke

10/12: "Locke's Theory of Acquisition" by R. Nozick ^

Week 9: Property

10/17: "Property, Title and Redistribution" by A.M. Honoré ^

10/19: *International News Service v. Associated Press I* (1918)

--Take Home Short Answer Essay Exam #2 available on Blackboard at 9 pm

Week 10: Torts and Theories of Responsibility

10/24: "Causation and Responsibility" by H.L.A. Hart and A.M. Honoré

10/26: "Sua Culpa" by J. Feinberg ^

-10/28: Take Home Short Answer Essay Exam #2 Due via Blackboard at 9 pm

Week 11: Torts and Theories of Responsibility

10/31: "Tort Liability and the Limits of Corrective Justice" by J. Coleman

11/2: *Tarasoff v. Regents of University of California* (1976)

-Term paper topics become available on Blackboard at 9 pm

Week 12: Criminal Law

11/7: TBA/Catch up day in case we are behind in the readings

11/9: "On Liberty" by J.S. Mill ^

Week 13: Criminal Law

11/14: "The Enforcement of Morals" by P. Devlin

11/16: "The Mind and the Deed" by A. Kenny

Week 14: Contracts

11/21: "Of the First and Second Natural Laws, and of Contracts" by T. Hobbes

11/23: "The Practice of Promising" by P. Atiyah

Week 15: International Law

11/28: "International Law" by H.L.A. Hart

11/30: "Humanitarian Intervention: Problems of Collective Responsibility" by L. May

Week 16: Final Exam Week

12/8: Term papers due via Blackboard at 9:00 pm (no late papers accepted)