

Date prepared: 8/9/23

Syllabus
The University of New Orleans
Dept. of Philosophy

PHIL 2207: Philosophy of Law (3 credits)

SECTIONS 1: LA 192, T/Thu 9 :30-10:45

Contact Information

Instructor: Dr. Sara Bizarro
Office: TBA
Office Hours: Tue 4-6pm; Thu: 2-4 pm
Office / Mobile: (504) 975-1373
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Required Texts

Tebbit, Mark *Philosophy of Law, An Introduction*, 2nd Edition, Routledge, 2005
ISBN 0-415-33441-1 (pbk)

Note: The book chapters and other required readings will be posted on Canvas, this book can be found online second hand for a very affordable price and I would recommend you purchase it. We will be using it every week.

Course Description

CATALOG DESCRIPTION: A critical examination, at an introductory level, of questions concerning the nature and foundations of law, the relation of law and morality and law and society, and of key concepts such as responsibility and punishment.

COURSE OVERVIEW: This class will address various topics in the philosophy of law. Some questions we'll be addressing and discussing are:

- What is law?
- What is the relationship between law and ethics or morals?
- What is justice?
- Natural Law, Positivism, Pragmatism and Legal Realism.
- Do we have an obligation to obey the law?
- What, if anything, justifies punishment?
- When are we responsible for what we do?
- What rights should/do our laws protect?
- Liberty, privacy and the law.
- Critiques of criminal law.

Outcomes

Upon successfully completing this course, students will be able to do the following:

- Have a grasp of the essential positions in the philosophy of law.
- Identify several important philosophers that work in philosophy of law and describe their positions.
- Be able to construct arguments regarding the nature of law
- Discuss and defend several positions in philosophy of law, supporting them with complete and convincing arguments.
- Work on a final project that directly uses the topics discussed in class and implements the argumentation skills developed.

Grades

Grades will be based on a 100-point scale distributed as follows:

Requirement		Final grade	
Weekly Reading Assignments	20		100 – 90 points
Attendance and Participation	20	A	89 – 80 points
Midterm Essay Question	20	B	79 – 70 points
Final Essay	20	C	69 – 60 points
Final Presentation	20	D	59 – 0 points
Total	100	F	

*Grades over .5 will be rounded up, so 89.5 will be rounded up to 90.

LATE WORK: Reading assignments can be submitted up to 10 days after the deadline, Perusall deduces points gradually. After those 10 days extensions will only be granted in extreme and documented circumstances. In most cases no extensions will be granted. In person essays and presentations must be taken or executed on the day scheduled. Missing the exams or a presentation will result in a failing grade on that exam. If you have a situation that you believe is an extenuating circumstance, you can only ask for consideration with written documentation and I will try to find an alternative solution. If you encounter any unexpected circumstances make sure to document them, as extensions will not be granted without documentation. Please note that the final presentations are on the day of the final exam, so no extension can be granted for those. Students can submit slides without presenting with a 50% penalty on that assignment.

These are the class policies for my class. Please read them carefully since they will be essential to success in the class.

ACADEMIC INTEGRITY: Academic honesty is essential for learning, evaluating academic performance, and to the entire educational function of a University. For this reason, academic dishonesty will not be tolerated. Academic dishonesty includes but is not limited to, the following: cheating, plagiarism, tampering with academic records and examinations, falsifying identity, and being an accessory to acts of academic dishonesty. The student code is available on Moodle and online at <http://www.studentaffairs.uno.edu>. Each student is required to pledge that all completed work will be submitted according to the principles of academic integrity as defined in the statement on Academic Dishonesty in the UNO Student Code of Conduct.

CLASS CONDUCT: Discussion in class is encouraged, but civility must be maintained at all times. No abusive, uncivil, or inappropriate behavior will be tolerated. Devices must be kept away during class, except for notetaking. Phones must be silenced, computers need to be on note-taking programs only, no browsing or other viewing is allowed. No headphones allowed in class. Not following these rules will result in a failing grade in the participation section of this class.

READINGS: Students will be expected to keep up on the weekly reading assignments on Perusall (accessible through Canvas), you need to have read the material **before** the Thursday class. All required readings will be posted. The course book is used every week and can be purchased for an affordable price online. It will also be available on canvas, but I would recommend you get the physical book if possible.

ATTENDANCE AND PARTICIPATION: I will be taking attendance in every class. Both your attendance and participation will be graded. Please volunteer to speak in class during the discussion periods so as to enhance your participation grade. Tuesday classes will be lecture classes, and Thursday classes will be discussion classes. Missing a discussion class, for whatever reason, causes the participation grade to go down.

ASSIGNMENTS

READINGS: Every week there are readings and an assignment related to the reading. Those will be posted on Canvas and will be due before our Thursday class.

MID-TERM ESSAY: There is a Mid-Term Exam that consists of a term definition, a one-paragraph answer, and a short essay question. I will provide the students with the questions in advance. Students will prepare all answers and the question will be selected by lot with groups selected by last name. The answers need to be completed in class. The questions can be completed by hand (with legible handwriting) or with a lock-down browser on Canvas in class.

FINAL ESSAY: The final Essay is written independently and is on a topic chosen by the student. This topic should be inspired either by our course book or by the other assigned readings. You will need to set up office hours to discuss your idea for the topic. You will also submit a first draft of your final essay which I can discuss either in office hours, or give you feedback in writing. The final essay must then the essay must be revised to reflect the feedback received. Detailed instructions about the final essay will be provided on a separate assignment sheet.

PRESENTATIONS: At the end of the school year students will present their final essays in class. Each presentation should be ideally last 10 minutes and no more than 15 minutes. Presentations that go over 15 minutes will be penalized.

OFFICE HOURS: You will need to schedule office hours a first time to pick your final essay topic. You are encouraged to schedule office hours a second time to get feedback for your first draft. I will post a Calendly link for you to schedule these office hours. If the available slots are not at times you can attend, we can add further time slots depending on your availability. If this is the case, send me an email with your availability.

CONTENT NOTICE/TRIGGER WARNING: All philosophy classes are argument-based, which means there are different opinions expressed in class. There are also topics that may be problematic, especially in Philosophy of Law, since it deals with criminal offenses, punishment and incarceration. You can expect open discussion of all types of criminal offences, including murder and sexual assault. You can also expect discussions regarding racism, sexism and discrimination in the law. As a philosophy of law student you need to be comfortable discussing these topics.

INCOMPLETES: Incompletes are only granted in extreme and documented extenuating circumstances and must be discussed and arranged well before the last class meeting. If a student asks for an incomplete at the end of the course, it will be denied, unless there are extreme and documented medical or other severe circumstances. If your situation is not documented, you need to find a way to officially confirm the reason why you are asking for an incomplete.

WITHDRAWALS: Check the academic calendar for withdrawal dates. You do not need to tell me anything, you can withdraw within the University rules. I understand that life happens and sometimes it is not the right time to take a class. You can always return to it next semester.

DISABILITY ACCOMMODATIONS: It is University policy to provide, on a flexible and individualized basis, reasonable accommodations to students who have disabilities that may affect their ability to participate in course activities or to meet course requirements. Students with disabilities should contact the Office of Disability Services as well as their instructors to discuss their individual needs for accommodation. For more information, please go to <http://www.ods.uno.edu>.

STUDENT SUPPORT SERVICES: Please remember that both the Library and Learning Resource Center are available to assist all students regarding writing and research.

PHIL 2207 FALL 2023 Timeline
(subject to revision)

DAY	TOPIC/READING
Week 1 Aug. 15/17	<p>Introduction</p> <ul style="list-style-type: none"> • Meet and Greet - Syllabus and Course Preview. • What is Philosophy of Law? • Course book, readings and course outline. • Course assignments and grading. • Required Reading: Fuller, "Eight Ways to Fail to Make Law"

<p>Week 2 Aug. 22/24</p>	<p>Morality, Justice and Natural Law (p.3-14)</p> <ul style="list-style-type: none"> • What is the relationship between morality and law? • What is Justice? • Natural Law and Legal Positivism. • Required Readings: <ul style="list-style-type: none"> ○ Tebbit, 3-14 ○ Thomas Aquinas, "Concerning the Nature of Law" <i>Summa Theologica</i>.
<p>Week 3 Aug. 29/31</p>	<p>Early Positivism (p.15-21)</p> <ul style="list-style-type: none"> • The rise of positivism: The Philosophical Background • Hume, Bentham and Austin • Required Reading: <ul style="list-style-type: none"> ○ Tebbit, 15-21 ○ John Austin, "A Positivist Conception of Law"
<p>Week 4 Sep. 5/7</p>	<p>Pragmatism and Legal Realism (p.21-33)</p> <ul style="list-style-type: none"> • Realists against formalism. • The pragmatics of justice. • Required Reading: <ul style="list-style-type: none"> ○ Tebbit, 21-33 ○ O.W. Holmes Jr, "The Path of the Law" and Jerome Frank, "Legal Realism."
<p>Week 5 Sep. 12/14</p>	<p>Modern Positivism (p.33-39)</p> <ul style="list-style-type: none"> • Legal Validity and the Nazi Legality Problem. • Kelsen's Formal Theory • Required Readings: <ul style="list-style-type: none"> ○ Tebbit, 21-33 ○ Kelsen, "Pure Theory of Law."
<p>Week 6 Sep. 19/21</p>	<p>Critiques to Modern Positivism (p.40-43)</p> <ul style="list-style-type: none"> • H.L.A. Hart's concept of law. • Hart's attack on Positivism. • Required Reading: <ul style="list-style-type: none"> ○ Tebbit, 40-43 ○ H.L.A. Hart, "The Concept of Law"
<p>Week 7 Sep. 26/28</p>	<p>Contemporary Theories of Law (p.49-60)</p> <ul style="list-style-type: none"> • Dworkin's theory of law as integrity. • The role of interpretation. • Required Readings: <ul style="list-style-type: none"> ○ Tebbit, 49-60 ○ Dworkin, "Hard Cases"

<p>Week 8 Oct. 3/5</p>	<p>Critiques of Contemporary Theories of Law (p.60-69)</p> <ul style="list-style-type: none"> • Rules and Principles. • Moral Objectivism. • Required Reading: <ul style="list-style-type: none"> ○ Tebbit, 60-69 ○ J.L. Mackie, "The Third Theory of Law."
<p>Week 9 Oct. 12 Fall Break Oct 10</p>	<p>Mid Term - Essay Questions – Done in Class.</p>
<p>Week 10 Oct. 17/19</p>	<p>Law and Modernity (p.70-88)</p> <ul style="list-style-type: none"> • Modernity and the Enlightenment • Critics of the Enlightenment • Postmodernism: Foucault and Derrida • Critical Legal Studies • Required Reading: <ul style="list-style-type: none"> ○ Tebbit, 70-88 ○ Foucault. "Docile Bodies"
<p>Week 11 Oct. 24/26</p>	<p>Authority and Obligation (p.91-121)</p> <ul style="list-style-type: none"> • Contractualism. • John Rawls • Required Reading: <ul style="list-style-type: none"> ○ Tebbit, 91-121 ○ Martin Luther King Jr., "Letter from Birmingham Jail."
<p>Week 12 Oct 31/Nov 1</p>	<p>Legal and Moral Rights (p.109-126)</p> <ul style="list-style-type: none"> • Hohfeld: Rights, No-rights, Duties • Rights versus utilities. • Human Rights • Required Readings: <ul style="list-style-type: none"> ○ Tebbit, 109-126 ○ Dworkin, "Taking Rights Seriously"
<p>Week 13 Nov. 7/ 9</p>	<p>Liberty, Privacy and Tolerance (p.127-139)</p> <ul style="list-style-type: none"> • The Wolfenden Report • John Stuart Mill and Liberty • Required Readings: <ul style="list-style-type: none"> ○ Tebbit, 127-139 ○ John Stuart Mill, "On Liberty" <p>Final Essay First Drafts Due – November 10</p>
<p>Week 14 Nov. 14/16</p>	<p>Criminal Responsibility and Punishment (p.156-179)</p>

	<ul style="list-style-type: none"> • Responsibility and Guilt • Free agency and responsibility. • Justifications and Excuses. • Intention, motive and foresight. • Required Readings: <ul style="list-style-type: none"> ○ Tebbit, 156-179 ○ Hart, "Punishment and Responsibility"
<p style="text-align: center;">Week 15 Nov. 21 Thanksgiving Break</p>	<p>Theories of Punishment (p.192-213)</p> <ul style="list-style-type: none"> • The problem of Justification. • Retributivism • Punishment as communication • Desert and deterrence • Required Reading: <ul style="list-style-type: none"> ○ Tebbit, 192-213 ○ Robert Nozick, "Prohibition, Compensation and Risk"
<p style="text-align: center;">Week 16 Nov. 28 Classes end on November 29</p>	<p>Crime and Modernity (p.214-230)</p> <ul style="list-style-type: none"> • Intension and Insanity, recklessness and foresight. • Feminist Critiques of Criminal Law • Required Readings: <ul style="list-style-type: none"> • Tibbet 214-230 • Lois Bibbings, "Boys Will be Boys: Masculinity and Offenses Against the Person" <p>Revised Final Essay Due – November 29</p>
<p style="text-align: center;">Exam Date TBA</p>	<p>Final Presentations – Date to Be Announced</p>