

**PHIL 324 Philosophy of Law**  
**Chapman University**  
**Department of Philosophy**

Fall 2020 Monday / Wednesday 9:30-10:45am on Zoom  
Instructor: Adam Gjesdal  
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**CATALOG DESCRIPTION:**

This course will focus on a number of questions in philosophy of law. Such as: (1) What is law: what distinguishes legal rules from the rules of a game or the rules of morality? And what is the status of a legal rule that purports to if it demands or allows immoral actions? (2) What is the nature of rights? Are there natural rights? Or should we reject the idea of rights altogether? (3) What is punishment, and can states permissibly punish? An important theme running through all these questions is the relation between legal concepts and moral concepts.

**TEACHING METHOD:**

We will conduct class on Zoom as though it were in person, in a normal classroom. You are expected to log in on time, to have your camera on, and be ready to discuss the readings. I will not be recording normal class sessions. The only exception is if I need to cancel class for a specific day, I will post a pre-recorded lecture instead.

Some days we will start class with a lecture, others we will launch directly into discussion of the readings. To make the most of discussions, you should come to class having done the readings and thought about them carefully and critically. The readings are all challenging, and it will oftentimes help to go through them multiple times on your own before class, your schedule permitting.

Please do ask questions, even if you believe yours may not be a good one. If you've thought about it, probably someone else has too. If you ask a question, do not hesitate to take your time. This course is a success if you find yourself *thinking* about these topics.

**READINGS:**

We will use William A. Edmundson, *An Introduction to Rights: Second Edition*, (Cambridge University Press), and various other readings. Everything except for Edmundson's text, which costs \$27.99 new, will be made available online.

**ACADEMIC FREEDOM:**

Speak your mind. Academic freedom is for us one of the highest goods. The objective of this class is not to agree – nor is it to disagree – with anything the authors or I think. It is to come to formulate ideas of your own. Whatever they are, all I will ask of you is that you can support them with coherent arguments. Respectful discussion in class is an *absolute* requirement. We will be discussing some issues about which people strongly disagree. Some of these issues concern life and death. I will never make your life difficult based on what you say in class, I may make your life difficult based on how you say it.

## **EVALUATION AND GRADING:**

Your final grade will depend on five components: two exams, two papers, and class participation. Final grades will be determined as follows.

Exam 1: 25%  
Exam 2: 25%  
Paper 1: 10%  
Paper 2: 25%  
Participation: 15%

The second exam will not be cumulative. Instructions for the papers will be posted on the course web site.

Participation will be graded using the “present and prepared” system. At the beginning of some classes (not all), I will ask those of you who are logged in and willing to participate to digitally raise your hand. This will indicate you have prepared for class, have thought about the reading, and are ready to ask or answer questions about it. Participation credit for a given day presupposes both that you have raised your hand at the beginning of class and that you can show your engagement with the reading in a constructive way.

The grading scale for the course as a whole will be as follows:

A	93-100%	B	83-86%	C	73-76%	D	63-66%
A-	90-92%	B-	80-82%	C-	70-72%	D-	60-62%
B+	87-89%	B	77-79%	D+	67-69%	F	0-59%

## **MISSED EXAMS OR DEADLINES:**

Contact me in advance if you need to reschedule an exam or anticipate difficulty meeting a paper deadline. Except in the case of documentable emergencies, expect to receive a “0” on any missed exams or late submitted work.

## **ACADEMIC INTEGRITY:**

It goes without saying that every student should be familiar with Chapman's academic integrity's policy. You can find it [here](#). It also goes without saying that Academic Integrity will be taken extremely seriously in this course. Anyone found cheating will fail the course.

## **ACCOMMODATIONS:**

In compliance with ADA guidelines, students who have any condition, either permanent or temporary, that might affect their ability to perform in this class are encouraged to contact the [Office of Disability Services](#). If you will need to utilize your approved accommodations in this class, please follow the proper notification procedure for informing your professor(s). This notification process must occur more than a week before any accommodation can be utilized. Please contact Disability Services at (714) 516-4520 if you have questions regarding this procedure, or for information and to make an appointment to discuss and/or request potential accommodations based on documentation of your disability. Once formal approval of your need for an accommodation has been granted, you are encouraged to talk with your professor(s) about

your accommodation options. The granting of any accommodation will not be retroactive and cannot jeopardize the academic standards or integrity of the course.

### **COURSE OUTLINE:**

Course readings are subject to change. You'll receive ample notice should there be any change in the schedule.

#### **Week 1: Introduction, Natural Law**

August 31: Introduction

September 2: Aquinas, excerpt from "Treatise on Law", Questions 90, 91 (only article 3), 94 (only articles 3, 4, 5), 95 (only article 2), 96 (only article 4)

#### **Week 2**

September 7: Labor Day No Class

September 9: Aquinas, excerpt from "Treatise on Law", Questions 90, 91 (only article 3), 94 (only articles 3, 4, 5), 95 (only article 2), 96 (only article 4)

#### **Week 3**

September 14: Thomas Hobbes, excerpt from Leviathan, ch. XIV "Of The First And Second Naturall Lawes, And Of Contracts" and ch. XXVI "Of Civil Laws"

September 16: Thomas Hobbes, excerpt from Leviathan, ch. XIV "Of The First And Second Naturall Lawes, And Of Contracts" and ch. XXVI "Of Civil Laws"

#### **Week 4: Hart vs. Dworkin**

September 21: H.L.A. Hart, excerpt from The Concept of Law, "Laws as the Union of Primary and Secondary Rules", sec. 1 & 2

September 23: H.L.A. Hart, excerpt from The Concept of Law, "Laws as the Union of Primary and Secondary Rules", sec. 3

#### **Week 5**

September 28: H.L.A. Hart, excerpt from The Concept of Law, "Laws as the Union of Primary and Secondary Rules", sec. 3

September 30: Ronald Dworkin, "The Model of Rules I"

#### **Week 6**

October 5: Ronald Dworkin, "Integrity in Law"

October 7: Dworkin continued, reading to be announced, **Essay #1 due**

#### **Week 7 Edmundson's *An Introduction to Rights***

October 12: Edmundson, ch. 2, pages 13-23 (Grotius, Hobbes, Pufendorf, Locke)

October 14: Edmundson, ch. 3 and 4, pages 44-50, 55-61 (Bentham, Mill)

#### **Week 8**

October 19: Review

October 21: **Exam #1**

### **Week 9**

October 26: Edmundson, ch. 5, pages 71-82

October 28: Edmundson, ch. 7, pages 96-107

### **Week 10**

November 2: Edmundson, ch. 8, pages 108-115, ch. 9, pages 116-121 (to end of “Are Rights Trumps?”)

November 4: Edmundson, ch. 10, pages 131-139

### **Week 11 Punishment**

November 9: Joel Feinberg, “The Expressive Function of Punishment”

November 11: John Locke, *Second Treatise of Government*, chapter 2, available at:

[https://www.gutenberg.org/files/7370/7370-h/7370-h.htm#CHAPTER\\_II](https://www.gutenberg.org/files/7370/7370-h/7370-h.htm#CHAPTER_II)

Christopher H. Wellman, “The Rights Forfeiture Theory of Punishment”, up to p. 386.

### **Week 12**

November 16: Christopher H. Wellman, “*Mala Prohibita*”

November 18: Erin Kelly, “Criminal Justice without Retribution”

### **Week 13**

November 23: Thanksgiving Break No Class

November 25: Thanksgiving Break No Class

### **Week 14 Civil and Uncivil Disobedience**

November 30: Martin Luther King, Jr., “Letter from Birmingham Jail”, Candice Delmas, “Civil Disobedience”

December 2: John Rawls, “Civil Disobedience”

### **Week 15**

December 6: Avia Pasternak, “Political Rioting: A Moral Assessment”

December 9: Review, **Essay #2 due**

### **Finals week**

December 15 (Tuesday): **Exam #2**

### **PHILOSOPHY PROGRAM LEARNING OUTCOMES (PLO's)**

PLO1: Writing

Ability to state and support a thesis, apply knowledge of critical reasoning, accurately interpret philosophic sources, and clearly communicate a balanced account in writing.

PLO2: Critical Reasoning

Ability to construct and analyze complex arguments, and distinguish good reasoning from bad.

PLO 4: Ethical Reasoning:

Ability to reason logically, effectively, and respectfully about ethical matters.

### **GE OUTCOMES**

Values and Ethical Inquiry (7VI):

- Students will be able to articulate how values and ethics inform human understanding, structures, and behavior.

Social Inquiry (7SI):

- Students will be able to articulate how values and ethics inform human understanding, structures, and behavior.

SLO 1: Writing

- Ability to state and support a thesis, apply knowledge of critical reasoning, accurately interpret philosophic sources, and clearly communicate a balanced account in writing.

SLO 2: Critical Reasoning

- Ability to construct and analyze complex arguments, and distinguish good reasoning from bad.

SLO 3E: Ethics

- Ability to demonstrate knowledge of some of the most important figures and theories in philosophical ethics.