

## Topics in Philosophy of Law Phil 2822F, 2021

### CONTACT INFORMATION

Instructor: Lucien Lamoureux, LL.B/J.D., Ph.D.  
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Office Hours: Thu: 3:30 pm - 5:30 pm (alternative telephone or Zoom meetings can be arranged)  
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### CLASS INFORMATION

Tue: 11:30 am – 1:30 pm  
Thu: 11:30 am – 12:30 pm  
Classroom: H112  
Website: <https://owl.uwo.ca/portal>

### COURSE DESCRIPTION

This course is an introduction to number of special topics in legal philosophy, including constitutional rights and democracy, the debate between legal liberalism and legal moralism, the scope and limits of criminal responsibility, and the status of international law.

### COURSE LEARNING OUTCOMES

Upon successful completion of this course, students will be able to:

1. Describe philosophical theories framing special topics in philosophy of law.
2. Apply these theories to concrete situations.
3. Discuss competing points of view on issues in philosophy of law.
4. Evaluate conflicting philosophical arguments related to these issues.
5. Formulate well-reasoned solutions to practical dilemmas.
6. Persuade others of a well-reasoned stance or action.
7. Demonstrate effective writing and skillful critical and reflective thinking.

Students may vary in their competency levels on these outcomes. They can expect to achieve these outcomes if they honour course policies, attend classes regularly, complete all assigned work in good faith and on time, and meet all other course expectations of them as students.

### ANTIREQUISITE(S)

None. Students wishing to audit the course should consult with the instructor prior to or during the first week of classes.

## **PREREQUISITE(S)**

None.

## **COURSE STRUCTURE AND CONTENT**

3 lecture hours/week; 0.5 course.

Lectures will be integrated with reading materials, legal cases, visual presentations, and group discussions.

## **COURSE MATERIALS**

### **Required texts:**

Readings in Philosophy of Law, 3<sup>rd</sup> ed., Culver, Keith, C. and Giudice, Michael, Broadview Press (2017). (paperback)

Canadian Cases in Philosophy of Law, 5<sup>th</sup> ed., Bickenbach, J.E., Broadview Press (2018). (paperback)

Writing Philosophy: A Guide for Canadian <sup>[1]</sup>Students, 2<sup>nd</sup> ed., Vaughn, Lewis and Scott McIntosh, Jillian, Oxford University Press (2012).

## **COURSE REQUIREMENTS**

Class Attendance	10%
First Paper (Due Oct 19)	20%
Second Paper (Due Dec 7)	31%
Final Exam (TBA)	39%

## **COPYRIGHT AND INTELLECTUAL PROPERTY**

Webinars, PowerPoint lecture slides and notes, lists of readings, in-class activities, assignment guidelines, and other components of the course materials are typically the intellectual property of the instructor. Unauthorized reproduction through audio-recording, video-recording, photographing, sharing on social media, or posting on course-sharing websites is an infringement of copyright and is prohibited. Such action may be considered a Code of Conduct violation and lead to sanctions.

## EVALUATION

### Class Attendance

A 10% grade will be awarded on the basis of classroom attendance. In addition, students will be expected to discuss assigned readings and cases.

### Papers

Format: 5 double-spaced pages, i.e. approximately 1250 words. Hardcopy to be submitted in class on the due date.

Plagiarism Check: Essays must also be submitted electronically to OWL on the due date to be evaluated through turnitin. Essays not submitted to OWL will not receive a grade.

Marking Criteria: Each paper will be graded out of 50 according to the following criteria:

*Understanding*: How well does the author understand and make judicious use of the relevant course material? How well does s/he understand the complexity of the issues involved? [15 marks]

*Argument*: Does the author use cogent arguments to support his or her position? Do the claims made in different parts of the paper follow from one another and are they consistent? [15 marks]

*Clarity*: Is the author's position clear, with an explicitly articulated thesis, and is the paper clearly written overall? Does the paper answer the questions asked? Could another student at the same level who is not enrolled in the course understand the paper? [10 marks]

*Organization*: Does the author reveal a plan for the paper at the outset and does s/he follow that plan? Does the paper have an explicit overall direction? [5 marks]

*Style*: Does the author's paper use correct grammar and syntax? Have the guidelines for proper format been followed? Has the author cited sources where necessary, following a recognized style? [5 marks]

### Final Exam

The format will be short answer and essay. Further details will be provided to the class later in the term.

## ACADEMIC ACCOMMODATION

For course components worth 10% or more of the total course grade, please see the Academic Policies and Regulations section at the end of this course outline or consult the Academic Calendar.

For course components worth less than 10% of the total course grade, an academic accommodation will still be required. Supporting documentation should be submitted to your Academic Advisor if you choose not to self-report or self-reporting is not an option.

**Reading Syllabus (subject to revision)**

<b>Date</b>	<b>Topic</b>	<b>Readings</b>	<b>Assignments (Due Tuesday)</b>
Sept 9, 14	<b>Constitutional Rights, Judicial Review and Democracy</b>	Bickenbach: Part I; Part VI: <i>Sauve</i> ; Charter of Rights and Freedoms (pp.399-405)	
Sept 16, 21	a. Ulysses Metaphor	Culver, Chapter 6: Waldron	
Sept 23, 28	b. Living Tree Metaphor	Culver, Chapter 6: Waluchow	
Sept 30, Oct 5	(continued) <b>Limits on Individual Liberty</b> a. Hate Propaganda and Anti-Terrorism	Bickenbach, Part II: <i>Keegstra</i> Culver, Chapter 7: Mill, Dworkin	
Oct 7, 12	(continued)		
Oct 14, 19	b. Corporate “Persons”	Bickenbach, Part II: <i>Big M Drug Mart</i> Documentary: <i>The Corporation</i>	<b>Paper #1</b>
Oct 21, 26	b. Moralism	Bickenbach, Part II: <i>Butler</i> Culver, Chapter 7: Devlin; Hart	
Oct 28, Nov 9 (Note: Nov 2, 4 fall on reading week)	(continued)		
Nov 11, 16	<b>Criminal Responsibility</b> a. What does it mean?	Bickenbach, Part V: <i>Motor Vehicle Act</i> ; Part VI: <i>Sault Ste. Marie</i> ; <i>Hundal</i> ; <i>Perka</i> ; <i>Lavelle</i> ; <i>Mallott</i> Culver, Chapter 8: Hart	
Nov 18, 23	b. Intentions and Actions  c. Hate Crime	Bickenbach, Part VII: <i>Machekequonabe</i> Culver, Chapter 8: Duff, Hurd	
Nov 25, 30	<b>International Law</b> a. Is it Law?	Bickenbach, Part VIII: <i>Trail Smelter</i> ; <i>SS Lotus</i> Culver, Chapter 9: Grotius, Hart	
Dec 2, 7	b. What is its Nature?	Culver, Chapter 9: Koskenniemi, Cotterrell	<b>Paper #2</b>

## **Appendix to Course Outlines: Academic Policies & Regulations 2021 - 2022**

### **Prerequisite and Antirequisite Information**

Students are responsible for ensuring that they have successfully completed all course prerequisites and that they have not completed any course antirequisites. Unless you have either the requisites for this course or written special permission from your Dean to enroll in it, you may be removed from this course and it will be deleted from your record. This decision may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites.

### **Pandemic Contingency**

In the event of a COVID-19 resurgence during the course that necessitates the course delivery moving away from face-to-face interaction, all remaining course content will be delivered entirely online, typically using a combination of synchronous instruction (i.e., at the times indicated in the timetable) and asynchronous material (e.g., posted on OWL for students to view at their convenience). Any remaining assessments will also be conducted online at the discretion of the course instructor. In the unlikely event that changes to the grading scheme are necessary, these changes will be clearly communicated as soon as possible.

### **Student Code of Conduct**

Membership in the community of Huron University College and Western University implies acceptance by every student of the principle of respect for the rights, responsibilities, dignity and well-being of others and a readiness to support an environment conducive to the intellectual and personal growth of all who study, work and live within it. Upon registration, students assume the responsibilities that such registration entails. While in the physical or online classroom, students are expected to behave in a manner that supports the learning environment of others. Please review the Student Code of Conduct at:

<https://huronatwestern.ca/sites/default/files/Res%20Life/Student%20Code%20of%20Conduct%20-%20Revised%20September%202019.pdf>.

### **Attendance Regulations for Examinations**

A student is entitled to be examined in courses in which registration is maintained, subject to the following limitations:

- 1) A student may be debarred from writing the final examination for failure to maintain satisfactory academic standing throughout the year.
- 2) Any student who, in the opinion of the instructor, is absent too frequently from class or laboratory periods in any course will be reported to the Dean of the Faculty offering the course (after due warning has been given). On the recommendation of the Department concerned, and with the permission of the Dean of that Faculty, the student will be debarred from taking the regular examination in the course. The Dean of the Faculty offering the course will communicate that decision to the Dean of the Faculty of registration.

Review the policy on Attendance Regulations for Examinations here:

[https://www.uwo.ca/univsec/pdf/academic\\_policies/exam/attendance.pdf](https://www.uwo.ca/univsec/pdf/academic_policies/exam/attendance.pdf).

### **Statement on Academic Offences**

Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of what constitutes a Scholastic Offence, at the following website: [https://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/scholastic\\_discipline\\_undergrad.pdf](https://www.uwo.ca/univsec/pdf/academic_policies/appeals/scholastic_discipline_undergrad.pdf). The appeals process is also outlined in this policy as well as more generally at the following website: [https://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/appealsundergrad.pdf](https://www.uwo.ca/univsec/pdf/academic_policies/appeals/appealsundergrad.pdf).

### **Turnitin.com**

All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com (<http://www.turnitin.com>).

### **Statement on Use of Electronic Devices**

It is not appropriate to use electronic devices (such as, but not limited to, laptops, cell phones) in the classroom for non-classroom activities. Such activity is disruptive and distracting to other students and to the instructor, and can inhibit learning. Students are expected to respect the classroom environment and to refrain from inappropriate use of technology and other electronic devices in class.

### **Statement on Use of Personal Response Systems (“Clickers”)**

Personal Response Systems (“clickers”) may be used in some classes. If clickers are to be used in a class, it is the responsibility of the student to ensure that the device is activated and functional. Students must see their instructor if they have any concerns about whether the clicker is malfunctioning. Students must use only their own clicker. If clicker records are used to compute a portion of the course grade:

- the use of somebody else’s clicker in class constitutes a scholastic offence
- the possession of a clicker belonging to another student will be interpreted as an attempt to commit a scholastic offence.

### **Academic Consideration for Missed Work**

Students who are seeking academic consideration for missed work during the semester may submit a self-reported absence form online provided that the absence is **48 hours or less** and the other conditions specified in the Senate policy at [https://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/accommodation\\_illness.pdf](https://www.uwo.ca/univsec/pdf/academic_policies/appeals/accommodation_illness.pdf) are met.

Students whose absences are expected to last **longer than 48 hours**, or where the other conditions detailed in the policy are not met (e.g., work is worth more than 30% of the final grade, the student has already used 2 self-reported absences, the absence is during the final exam period), may receive academic consideration by submitting a Student Medical Certificate (for illness) or other appropriate documentation (for compassionate grounds). The Student Medical Certificate is available online at [https://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/medicalform.pdf](https://www.uwo.ca/univsec/pdf/academic_policies/appeals/medicalform.pdf).

All students pursuing academic consideration, regardless of type, must contact their instructors no less than 24 hours following the end of the period of absence to clarify how they will be expected to fulfill the academic responsibilities missed during their absence. **Students are reminded that they should consider carefully the implications of postponing tests or midterm exams or delaying submission of work, and are encouraged to make appropriate decisions based on their specific circumstances.**

Students who have conditions for which academic accommodation is appropriate, such as disabilities or ongoing or chronic health conditions, should work with Accessible Education Services to

determine appropriate forms of accommodation. Further details concerning policies and procedures may be found at: <http://academicsupport.uwo.ca/>.

### **Policy on Academic Consideration for a Medical/ Non-Medical Absence**

#### **(a) Consideration on Medical Grounds for assignments worth *less than 10%* of final grade: Consult Instructor Directly and Contact Academic Advising**

When seeking consideration on **medical grounds** for assignments worth *less than 10%* of the final course grade, and if the student has exceeded the maximum number of permissible Self-Reported absences, the student should contact the instructor directly. The student need only share broad outlines of the medical situation. The instructor **may** require the student to submit documentation to the academic advisors, in which case she or he will advise the student and inform the academic advisors to expect documentation. If documentation is requested, the student will need to complete and submit the [Student Medical Certificate](#). The instructor may not collect medical documentation. The advisors will contact the instructor when the medical documentation is received, and will outline the severity and duration of the medical challenge as expressed on the Student Medical Certificate and in any other supporting documentation. The student will be informed that the instructor has been notified of the presence of medical documentation, and will be instructed to work as quickly as possible with the instructor on an agreement for accommodation.

#### **(b) Consideration on Non-Medical Grounds: Consult Huron Support Services/Academic Advising, or email [hurousss@uwo.ca](mailto:hurousss@uwo.ca).**

Students seeking academic consideration for a **non-medical** absence (e.g. varsity sports, religious, compassionate, or bereavement) will be required to provide appropriate documentation where the conditions for a Self-Reported Absence have not been met, including where the student has exceeded the maximum number of permissible Self-Reported. All consideration requests must include a completed [Consideration Request Form](#). Late penalties may apply at the discretion of the instructor.

Please review the full policy on Academic Consideration for medical and non-medical absence at: [https://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/accommodation\\_illness.pdf](https://www.uwo.ca/univsec/pdf/academic_policies/appeals/accommodation_illness.pdf). Consult [Huron Academic Advising](#) at [hurousss@uwo.ca](mailto:hurousss@uwo.ca) for any further questions or information.

### **Support Services**

For advice on course selections, degree requirements, and for assistance with requests for medical accommodation, students should email an Academic Advisor in Huron's Student Support Services at [hurousss@uwo.ca](mailto:hurousss@uwo.ca). An outline of the range of services offered is found on the Huron website at: <https://huronatwestern.ca/student-life/student-services/>.

Department Chairs, Program Directors and Coordinators are also able to answer questions about individual programs. Contact information can be found on the Huron website at: <https://huronatwestern.ca/contact/faculty-staff-directory/>.

If you think that you are too far behind to catch up or that your workload is not manageable, you should consult your Academic Advisor. If you are considering reducing your workload by dropping one or more courses, this must be done by the appropriate deadlines. Please refer to the Advising website, <https://huronatwestern.ca/student-life/student-services/academic-advising/> or review the list of official Sessional Dates on the Academic Calendar, available here: <http://www.westerncalendar.uwo.ca/SessionalDates.cfm>.

You should consult with the course instructor and the Academic Advisor who can help you consider alternatives to dropping one or more courses. Note that dropping a course may affect OSAP and/or Scholarship/Bursary eligibility.

Huron Student Support Services: <https://huronatwestern.ca/student-life/student-services/>

Office of the Registrar: <https://registrar.uwo.ca/>

Student Quick Reference Guide: <https://huronatwestern.ca/student-life/student-services/#1>

Academic Support & Engagement: <http://academicssupport.uwo.ca/>

Huron University College Student Council: <https://huronatwestern.ca/student-life/beyond-classroom/hucsc/>

Western USC: <http://westernusc.ca/your-services/#studentservices>

### **Mental Health & Wellness Support at Huron and Western**

University students may encounter setbacks from time to time that can impact academic performance. Huron offers a variety of services that are here to support your success and wellbeing. Please visit <https://huronatwestern.ca/student-life-campus/student-services/wellness-safety> for more information or contact staff directly:

Wellness Services: [huronwellness@huron.uwo.ca](mailto:huronwellness@huron.uwo.ca)

Community Safety Office: [safety@huron.uwo.ca](mailto:safety@huron.uwo.ca)

Chaplaincy: [gthorne@huron.uwo.ca](mailto:gthorne@huron.uwo.ca)

Additional supports for Health and Wellness may be found and accessed at Western through, <https://www.uwo.ca/health/>.