

*Course Syllabus*  
LWSO 591 Fall 2013 S01

**integrative seminar  
morality, human rights  
and the law**

**Dr. Maureen S. Hiebert**

*Thursdays 2:00pm - 4:45pm*  
EDC 289

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**Office Hours:**  
*Mondays 11:00am - 12:00 noon*  
*Wednesdays 2:00pm - 3:00pm*  
*Other times by appointment.*  
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**COURSE DESCRIPTION AND OBJECTIVES**

In this course we will critically analyze a central and contested theme in law and society: the connection between morality, human rights, and the law. The course will begin by examining a fundamental legal philosophical debate that deals with the place of morality in the law, followed by an examination of how classical sociological thinkers such as Weber, Durkheim, and Weber analyze the role of law in society with respect to morality and rights. Part II of the course will switch to the way in which morality and human rights are played out in different kinds of law (constitutional law, criminal law, and international law) and how this more general debate is manifested in controversial issues such as limitations on rights, the rights the victim and the rights of the accused, the difference between “rights” and “desires”, how to define and operationalize in law the notion of “universal” human rights and how to punish “extraordinary human evil”. Part III will involve a series of classroom presentations of student papers in a mock academic seminar format.

The goal of this course is to bring together many of the themes explored throughout the Law and Society program. Students will engage at a more sophisticated level with forms of texts that they have already encountered in the program including legal-philosophy, socio-legal analyses, case law, and practical jurisprudence. By emphasizing close textual analysis and weekly classroom discussions of the assigned readings, students will continue to hone their analytical and verbal communication skills.

### **READINGS AND REQUIRED TEXTS**

There are 5 required books for this course. The following books are available for purchase in the university bookstore:

H. L. A. Hart, *Law, Liberty, and Morality* (First Edition) (Stanford University Press, 1963)

Patrick Devlin. *The Enforcement of Morals* (Oxford University Press, 1965). N.B. this book is out of print but the U of C Bookstore is reprinting copies for this course

Emile Durkheim, *On Morality and Society: Selected Writings*, Robert N. Bellah (ed.) (University of Chicago Press, 1973)

*The Court and the Charter, Leading Cases*, Thomas M.J. Bateman, Janet L. Hiebert, Rainer Knopff, Peter H. Russell (eds.) (Edmond Montgomery, 2008)

*On Human Rights*, Stephen Shute and Susan Hurley (eds.) (Basic Books, New Edition, 1994)

**All of the other readings are available for students to look up on-line.**

### **REQUIREMENTS**

#### **Class Participation** (*15% of final grade*)

Class participation will be evaluated on attendance (5%) and the quality and quantity of individual student's participation in our weekly discussions of the topics and readings. (10%)

#### **Conference Presentation** (*20% of final grade*)

The last three weeks of the course will be taken up with student presentations of their final papers. These presentations will take the form of a mock academic conference in which the students will present their research on panels with other students presenting on similar themes. Each presentation will be approximately 15 minutes in length.

**First Paper (25% of final grade) due Thursday, October 10, 2013**

A short (5 pages double spaced) analytical paper in which the student will analyze an aspect of the moral foundations of law

**Second Paper (40% of final grade) due Thursday, December 5, 2013**

A research paper (approximately 15 pages double spaced) on a topic selected by the student in consultation with the professor

It is the student's responsibility to keep a copy of each submitted assignment. Note: Please hand in your essays through the digital drop box on the course website.

Final grades will be calculated based on the marks accumulated by students on each of the course requirements. Students do not need to pass each requirement to pass the course.

**Registrar-scheduled Final Examination: NO****Policy for Late Assignments**

Assignments submitted after the deadline will be penalized with the loss of a grade (e.g. A- to B+) for each day late.

**Freedom of Information and Protection of Privacy Act**

This course is conducted in accordance with the Freedom of Information and Protection of Privacy Act (FOIP). As one consequence, **students should identify themselves on all written work by using their ID number. Also you will be required to provide a piece of picture identification in order to pick up an assignment or look at a final exam.** For more information see also <http://www.ucalgary.ca/secretariat/privacy>.

**GRADING SCALE**

<b>A+</b>	96-100	<b>B+</b>	80-84.99	<b>C+</b>	65-69.99	<b>D+</b>	53-54.99
<b>A</b>	90-95.99	<b>B</b>	75-79.99	<b>C</b>	60-64.99	<b>D</b>	50-52.99
<b>A-</b>	85-89.99	<b>B-</b>	70-74.99	<b>C-</b>	55-59.99	<b>F</b>	0-49

**SCHEDULE OF TOPICS AND REQUIRED READINGS \*SUBJECT TO CHANGE****WEEK 1: INTRODUCTION TO COURSE**

Sept. 12

*No Readings:*

**PART I THE PHILOSOPHICAL AND SOCIOLOGICAL FOUNDATIONS OF MORALITY, RIGHTS AND THE LAW**

**WEEK 2: THE HART-DEVLIN DEBATE I: THE MORAL FOUNDATIONS OF LAW**

Sept. 19

*Readings:*

Patrick Devlin, *The Enforcement of Morals*, chapters 1-3, 5, 7

**WEEK 3: THE HART-DEVLIN DEBATE II: QUESTIONING THE MORAL FOUNDATIONS OF LAW**

Sept. 26

*Readings:*

H.L.A. Hart, *Law, Liberty, and Morality*, all chapters

**WEEK 4: CLASSICAL SOCIOLOGICAL INTERPRETATIONS OF MORALITY, HUMAN RIGHTS AND THE LAW**

Oct. 3

*Readings:*

Emile Durkheim, Part 3, chapters 6, 7

Max Weber, Part 5, chapter 11 "Power and Authority: When and Why do People Obey";  
Part 6, chapter 17, "From Particularistic Law to Formal Legal Equality and the Rights of the Individual".

Karl Marx: *Selected Writings*, "On the Jewish Question".

**WEEK 5: CRITICAL AND CONTEMPORARY INTERPRETATIONS OF MORALITY, HUMAN RIGHTS, AND THE LAW**

Oct. 10

**FIRST PAPER DUE**

*Readings:*

*On Human Rights*, all chapters

**PART II MORALITY, HUMAN RIGHTS AND THE LAW: SELECTED TOPICS**

**WEEK 6: CONSTITUTIONAL LAW**

Oct. 17

*Readings:*

*The Courts and the Charter*, Part 1 Fundamental Freedoms, cases 3-8 (Big M. Drug Mart

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Ltd., Quebec Sign case, Keegstra, Butler, RJR-MacDonald Inc., Multani v Commission scolaire Marguerite-Bourgeoys); Part 8 Equality Rights, cases 25, 26, 30 (Andrews, Law, Same Sex Marriage Reference)

**WEEK 7: CRIMINAL LAW**

Oct. 24

**Topic for second essay due***Readings:*

*The Courts and the Charter*, Part 5, cases 13, 14, 16, 17 (B.C. Motor Vehicle Act, Oakes, Seaboyer, Daviault)

**WEEK 8: HUMAN RIGHTS, SECURITY, AND THE “WAR ON TERROR”**

Oct. 31

*Readings:*

Kent Roach, “Must We Trade Rights for Security? The Choice Between Smart, Harsh, or Proportionate Security Strategies in Canada and Britain”, *Cardozo Law Review*, Vol. 75, No. 5

Kim Lane Scheppele, “North American Emergencies: The Use of Emergency Powers in Canada and the United States”, *International Constitutional Law*, Vol. 4, No. 2 (April 2006)

*The Courts and the Charter*, Part 5 case 20 (Charkaoui)

**WEEK 9: HUMAN RIGHTS AND INTERNATIONAL LAW**

Nov. 7

*Readings:*

Rhoda E. Howard-Hassmann, “The Second Great Transformation: Human Rights Leapfrogging in the Era of Globalization”, *Human Rights Quarterly*, Vol. 27 (2005)

Tony Evans, “International Human Rights Law and Power/Knowledge”, *Human Rights Quarterly*, Vol. 27 (2005)

Paolo G. Carozza, “Subsidiarity as a Structural Principle of International Law”, *The American Journal of International Law*, Vol. 29 (2003)

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**WEEK 10: ATROCITY CRIMES AND PUNISHING “EXTRAORDINARY HUMAN EVIL”**

Nov. 14

*Readings:*

Salif Nimaga, “An International ‘Conscience Collective’? A Durkheimian Analysis of International Criminal Law”, *International Criminal Law Review*, Vol. 7 (2007)

Payam Akhavan, “Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?”, *The American Journal of International Law*, Vol. 95

Mark Drumble, “Sclerosis: Retributive Justice and the Rwandan Genocide”, *Punishment and Society*, Vol. 2 (2000)

Kenneth Watkins, “Controlling the Use of Force: A Role for Human Rights Norms in Contemporary Armed Conflict”, *The American Journal of International Law*, Vol. 98 (2004)

**PART III: LWSO 591 MOCK ACADEMIC CONFERENCE****WEEK 11: PANELS I AND II**

Nov. 21

**WEEK 12: PANELS III AND IV**

Nov. 28

**WEEK 13: PANELS V AND VI**

Dec. 5

**SECOND PAPER DUE****Ethics**

If you perform research with human participants (i.e. surveys, interviews, observation) as part of your university studies, you are responsible for following university research ethics guidelines. Your instructor must review and approve of your research plans and supervise your research. For more information about your research ethics responsibilities, see <http://arts.ucalgary.ca/research/for-researchers/ethics>.

**Plagiarism**

Using any source whatsoever without clearly documenting it is a serious academic offense. Consequences include failure on the assignment, failure in the course and possibly suspension or expulsion from the university.

You must document not only direct quotations but also paraphrases and ideas where they appear in your text. A reference list at the end is insufficient by itself. Readers must be able to tell exactly where your words and ideas end and other people's words and ideas begin. This includes assignments submitted in non-traditional formats such as Web pages or visual media, and material taken from such sources.

Please consult your instructor if you have any questions regarding how to document sources.

### **Internet and Electronic Communication Device Information**

Students are welcome to use laptop computers for note taking ONLY. Cell phones must be put on mute and must not be used for making or receiving telephone calls or text messages.

### **Policy on Recording of Lectures**

Recording shall be permitted for individual private study only at the discretion of the instructor. For any other use, whether by duplication, transcription, publication, sale or transfer of recordings, written approval must be obtained from the instructor for the specific use proposed. Any other use of recordings constitutes academic misconduct and may result in suspension or expulsion. For more information on recording of lectures please see: <http://www.ucalgary.ca/pubs/calendar/current/e-6.html>

### **Academic Misconduct**

For information on academic misconduct and the consequences thereof please see the current University of Calgary Calendar at the following link: <http://www.ucalgary.ca/pubs/calendar/current/k.html>

### **Academic Accommodation Policy**

If you are a student with a disability who may require academic accommodation, it is your responsibility to register with the Student Accessibility Services (220-8237) and discuss your needs with your instructor no later than fourteen (14) days after the start of the course. For further information, please see <http://www.ucalgary.ca/access/>

### **Emergency Evacuation and Assembly Points**

Please note the evacuation points for this particular classroom. All classrooms on campus exit to specific places in case of emergency. The emergency assembly points differ depending upon where your classroom is located. For information on the emergency evacuation procedures and the assembly points see <http://www.ucalgary.ca/emergencyplan/assemblypoints>

**"SAFEWALK" Program**

Campus Security will escort individuals day or night -- call 403-220-5333 for assistance. Use any campus phone, emergency phone or the yellow phone located at most parking lot booths.

**Student Representation**

There are now four Arts reps, with the email addresses being [arts1@su.ucalgary.ca](mailto:arts1@su.ucalgary.ca), [arts2@su.ucalgary.ca](mailto:arts2@su.ucalgary.ca), [arts3@su.ucalgary.ca](mailto:arts3@su.ucalgary.ca), and [arts4@su.ucalgary.ca](mailto:arts4@su.ucalgary.ca). Please contact if you have questions related to Students Union matters, events, or concerns.

For your student ombudsman, please see

<http://www.ucalgary.ca/provost/students/ombuds>

**Faculty of Arts Program Advising and Student Information Resources**

- Have a question, but not sure where to start? The Faculty of Arts Program Information Centre (PIC) is your information resource for everything in Arts! Drop in at SS102, call us at 403-220-3580 or email us at [artsads@ucalgary.ca](mailto:artsads@ucalgary.ca). You can also visit the Faculty of Arts website at <http://arts.ucalgary.ca/undergraduate> which has detailed information on common academic concerns.
- For program planning and advice, contact the Student Success Centre (formerly the Undergraduate programs Office) at (403) 220-5881 or visit them on the 3<sup>rd</sup> Floor of the Taylor Family Digital Library
- For registration (add/drop/swap), paying fees and assistance with your Student Centre, contact Enrolment Services at (403) 210-ROCK [7625] or visit them at the MacKimmie Library Block.