

*Course Syllabus*  
2014-2015 Academic Year  
Fall 2014

**LWSO 591 S01—Integrative Seminar  
Law, Morality, and Human Rights**

**Law and Society Program  
Faculty of Arts**

**Instructor: Dr. Maureen S. Hiebert**

*Office Telephone:*

403 220-5633

*Office Hours:*

Mondays 1:00pm - 2:00pm, Thursdays 11:00pm - 12:00noon

Social Sciences, Room 722

or by appointment

*e-mail*

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*Class Time and Location*

Wednesdays 2:00pm - 4:45pm ST 063

Website: <http://d2l.ucalgary.ca>

**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.

### Required Readings and 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* (Stanford University Press, 1963)

Patrick Devlin. *The Enforcement of Morals* (Liberty Fund).

Roger Cotterrell, *Law's Community: Legal Theory in Sociological Perspective* (Clarendon Press Oxford, 1995).

*Human Rights and Human Wrongs*, Nicholas Owen (ed.) (Oxford University Press, 2003)

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

**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 Wednesday, October 8, 2014

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 3, 2014

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 D2L 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 **-5% per day including weekends**.

#### **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

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

#### SCHEDULE OF TOPICS AND REQUIRED READINGS \*SUBJECT TO CHANGE

##### WEEK 1: INTRODUCTION TO COURSE

September 10

*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**

September 17

*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**

September 24

*Readings:*H.L.A. Hart, *Law, Liberty, and Morality*, all chapters**WEEK 4: CLASSICAL SOCIOLOGICAL INTERPRETATIONS OF MORALITY, HUMAN RIGHTS AND THE LAW**

October 1

*Readings:*Roger Cotterrell, *Law's Community*, chapters 6, 7, 9**WEEK 5: CONTEMPORARY INTERPRETATIONS OF MORALITY, HUMAN RIGHTS, AND THE LAW**

October. 8

**FIRST PAPER DUE***Readings:*John Finnis, "Describing Law Normatively" (chapter 2), *Philosophy of Law: Collected Essays* Volume IV, pp. 23-45; available on-line at: <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199580088.001.0001/acprof-9780199580088-chapter-2>Joseph Raz, "About Morality and the Nature of Law", *American Journal of Jurisprudence*, Vol. 48, pp. 1-15.Jack Donnelly, *Universal Human Rights in Theory and Practice*, chapter 4, pp. 55-71; available through the University of Calgary Library as an ebook.Baladrishnan Rajagopal, "Right to Development and Global Governance: Old and New Challenges Twenty Five Years On", *Human Rights Quarterly*, Vol. 25, No. 4, November 2013, pp. 893-909.

**PART II MORALITY, HUMAN RIGHTS AND THE LAW: SELECTED TOPICS****WEEK 6: CONSTITUTIONAL LAW**

October 15

*Readings:*

*The Courts and the Charter*, Part 1 Fundamental Freedoms, cases 3, 5, 6, 8 (Big M. Drug Mart Ltd., Keegstra, Butler, Multani v Commission scolaire Marguerite-Bourgeoys); Part 8 Equality Rights, case 30 (Same Sex Marriage Reference)

**WEEK 7: CRIMINAL LAW**

October 22

**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”**

October 29

*Readings:*

Peter Margulies, “The NSA in Global Perspective: Surveillance, Human Rights, and International Counterterrorism”, *Fordham Law Review*, Vol. 82, No. 5, 2014, pp. 2137-2167

Francois Crepeau, “Anti-Terrorism Measures and Refugee Law Challenges in Canada”, *Refugee Survey Quarterly* UNHCR, Vol. 29, No. 4, 2011, pp. 31-44

Alan M. Dershowitz, “The Case for Torture Warrants”, 2002; available at: <http://www.alandershowitz.com/publications/docs/torturewarrants.html>

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

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

November 5

*Readings:*

Nicholas Owen, *Human Rights and Human Wrongs*, chapter 1 (Todorov with introduction by Ferguson), chapter 2 (Ignatieff with introduction by Garton Ash).

Tony Evans, "International Human Rights Law as Power/Knowledge", *Human Rights Quarterly*, Vol. 27, No. 3, 2005, pp. 1046-1068.

### WEEK 10: ATROCITY CRIMES: PREVENTION AND PUNISHMENT

November 12

#### Readings:

Nicholas Owen, *Human Rights and Human Wrongs*, chapter 3 (Singer with introduction by Broome), chapter 4 (Bindman with introduction by Gardner)

Susan Thomson and Rosemary Nagy, "Law, Power, and Justice: What Legalism Fails to Address in the Functioning of Rwanda's Gacaca Courts", *The International Journal of Transitional Justice*, Vol. 5, 2011, pp. 11-30.

### PART III: LWSO 591 MOCK ACADEMIC CONFERENCE

#### WEEK 11: PANELS I AND II

November 19

#### WEEK 12: PANELS III AND IV

November 26

#### WEEK 13: PANELS V AND VI

December 3

#### SECOND PAPER DUE

#### Course Notes:

1. Grade Reappraisal: Within two weeks of the date the exam/assignment is returned, students seeking reappraisal of examinations or assignments must submit a written response to the instructor explaining the basis for reconsideration of one's mark. The instructor will reconsider the grade assigned and respond to the student in writing to discuss his or her work and rationale. It should be noted that a reconsidered mark may be raised, lowered, or remain the same.
2. The main Sociology Department office does not deal with any course-related matters. Please speak directly to your instructor.
3. Academic Misconduct: Please refer to the website listed below for information on University of Calgary policies on Plagiarism/Cheating/Other Academic Misconduct: <http://www.ucalgary.ca/pubs/calendar/current/k-2-1.html>

4. Protection of Privacy: The Freedom of Information and Protection of Privacy (FOIPP) legislation does not allow students to retrieve any course material from public places. Anything that requires handing back will be returned directly during class or office hours. "If students are unable to pick up their assignments from the instructor, they provide the instructor with a stamped, self-addressed envelope to be used for the return of the assignment."
5. Ethical Research: Students are advised that any research with human subjects--including any interviewing (even with friends and family), opinion polling, or unobtrusive observation--must have the approval of the Departmental Ethics Committee. In completing course requirements, students must not undertake any human subjects research without discussing their plans with the instructor, to determine if ethics approval is required.
6. Deferrals: If possible, please provide advance notice to the instructor if you are unable to write an exam or complete/turn-in assignments on time. All requests for deferral of a course component due to health reasons must be accompanied by written documentation as outlined in the University Calendar and should be obtained while the student has the health issue rather than after recovery. Deferrals will be allowed in the following circumstances: illness, domestic affliction or religious conviction. Travel arrangements and misreading of the syllabus are not valid reasons for requesting a deferral. Deferrals will not be granted if it is determined that just cause is not shown by the student. If you have missed a test for a legitimate reason, the instructor can require you to write a "make up" test as close in time to the original test as possible or can choose to transfer the percentage weight to another course component. If the instructor schedules a "make up" test for you, its date and location will be at the convenience of the Department of Sociology. Deferred Final Exam Form: Please note that requests to defer a Registrar scheduled final exam are dealt with through the Registrar's Office. Further information about deadlines, and where paperwork should be taken, is available on the form, which can be found at: [http://www.ucalgary.ca/registrar/files/registrar/Sp\\_Su\\_DFE\\_App.pdf](http://www.ucalgary.ca/registrar/files/registrar/Sp_Su_DFE_App.pdf)

Deferred Term Work Form: Deferral of term work past the end of a term also requires a form to be filled out. It's available at <http://www.ucalgary.ca/registrar/files/registrar/defTW.pdf>

Once an extension date has been agreed between instructor and student, the form should be taken to the Faculty of Arts Program Information Centre (SS 110) for approval by an Associate Dean (Students).

7. Student Representation: The 2014-15 Students' Union VP Academic's email is: Hana Kadri [suvpaca@ucalgary.ca](mailto:suvpaca@ucalgary.ca). The Faculty of Arts has four SU representatives who may be contacted at any of the following email addresses: [arts1@ucalgary.ca](mailto:arts1@ucalgary.ca),

- [arts2@ucalgary.ca](mailto:arts2@ucalgary.ca), [arts3@ucalgary.ca](mailto:arts3@ucalgary.ca), and [arts4@ucalgary.ca](mailto:arts4@ucalgary.ca). You may also wish to contact the Student Ombudsperson for help with a variety of University-related matters: <http://www.ucalgary.ca/provost/students/ombuds/role>
8. Emergency Evacuation: In the case of fire or other emergency evacuation of this classroom, please proceed to the assembly point at [\*location\*]. Please check these assembly point locations for your other classes at: <http://www.ucalgary.ca/emergencyplan/assemblypoints>
  9. Safewalk: The University of Calgary provides a “safe walk” service to any location on Campus, including the LRT, parking lots, bus zones, and campus housing. For Campus Security/Safewalk call 220-5333. Campus Security can also be contacted from any of the “Help” phones located around Campus.
  10. Academic Accommodation: Students who require academic accommodation, must register with Student Accessibility Services (formerly the Disability Resource Centre) at MC 452 (or phone 403-220-8237). Please provide academic accommodation letters to the instructor as early in the semester as possible and no later than two weeks after the course begins.