PHIL 155  PHILOSOPHY OF LAW
FALL 2006

Class Meetings:  MWF 10-10:50 in MND 1024
Instructor:  Dr. Christina Bellon
Office Hours:  T 1:30-3:30pm;  W 11:00-12:30pm; and by appointment.
Contact:  MND 3012; 278.4759; bellon@csus.edu
Course Material:  www.csus.edu/indiv/b/bellonc and WebCT

CATALOGUE DESCRIPTION
This course will examine theories of the nature of law, e.g., natural law, legal positivism, legal realism. Selected controversies in contemporary law will also be studied, such as the justification of punishment, the legislation of morality, judicial activism vs. judicial restraint. Recommended Prerequisites: Passing score on the Writing Proficiency Exam and passing score for at least 3 units in Philosophy.

COURSE DESCRIPTION
This course is designed as an introduction to some of the philosophic issues that arise in the theory and practice of law. No prior familiarity with the study of law is required for this course. Rather, through the use of the text and discussion we will work on expanding our understanding of what the law is, how it is justified in its entirety, and how separate areas of law (e.g., public vs private, criminal vs civil, etc) are individually justifiable. In the process, we will consider some philosophically challenging aspects of the law and see how various scholars and practitioners, employing diverse methods, have attempted to resolve these trouble spots.

Toward this end, we will consider several theoretical approaches to law and jurisprudence, including Natural Law Theory, Legal Positivism, Legal Realism, and Critical Legal Theory (in its Marxist, Feminist and Race Theory variations). Once we have a solid appreciation of theoretical matters, we will explore the relation between law, morality and politics as the latter provide alternative sources of justification for the law's authority. We will also examine the philosophical underpinnings of such important legal concepts as privacy, liberty, responsibility (culpability), intentionality, and punishment. Finally, we will consider the role of law in maintaining an ordered and structured society and in establishing global or international order in the absence of a single political or moral authority. We will also spend some time on the basics of legal reasoning (i.e., logic for lawyers) and on techniques and tools needed to read cases fruitfully, both as philosophers and as budding scholars of law.

Throughout we will employ recent cases to highlight issues of philosophical concern. Students are encouraged to bring relevant case studies, current affairs issues in the law, or other examples to class for discussion.

TEXTS
Keith Culver (ed), Readings in the Philosophy of Law (Broadview Press, 1999).
Martin Golding, Legal Reasoning (Broadview Press, 2001).
LEARNING OBJECTIVES
At the completion of this course, students should have refined the following scholarly abilities:
1. Accurately describe and distinguish between a variety of legal concepts, theories, and positions;
2. Express one’s own judgements and construct basic legal arguments in a cogent and clear fashion;
3. Engage in cogent and respectful discussion of difficult and sometimes controversial issues;
4. Analyze specific legal arguments for consistency and credibility (including one’s own);
5. Read and analyze legal case texts;
6. Demonstrate familiarity with common law traditions and their operation in actual legal systems (primarily the US, UK, International system).

ASSIGNMENTS AND EVALUATION
Students will be evaluated by several means. These will include a series of short critical essays, short quizzes in legal reasoning, on-line discussion, a brief case analysis, and in-class participation.

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<th>LETTER/NUMERICAL GRADING SCALE</th>
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<tr>
<td>A Outstanding (96pts and above)</td>
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<td>A- Very Good (90-95pts)</td>
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<td>B Range Satisfactory (75-89pts)</td>
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<td>C Range Minimally Satisfactory (60-74pts)</td>
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<td>D Range Poor (50-59pts)</td>
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<td>F Unacceptable (49pts and below)</td>
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This is based upon a 100 pt scale with 1pt = 1%

Short Essays (3x 15pts = 45pts)
These are three required essays for this course, with one (#4) optional. The optional essay can be written and the score may be used to replace a lower score on a previous required essay (#1-3). These are due on the dates indicated in the schedule below. You must write all three required essays to complete the course. Your essay will be written in response to the assigned question which will be made available in WebCT at least 7 days prior to the due date.

Each essay has a maximum and minimum page requirement of 5 pages (1500 words, not including citations, include word count). Essays submitted outside these requirement will be refused and you will be required to resubmit for grading. Late penalties will be applied.

Failure to submit all three required essays will result in a failing grade of F for the course!

Quizzes (5pts each x best 4 = 20pts)
These are short 10 question multiple choice quizzes on the material in the section on legal reasoning. Each quiz will be written on a scantron, and submitted for grading. These are administered in class on the date indicated in the schedule. There will be no make-up opportunity for these quizzes.

On-Line Discussion (15pts)
Every student will be required to contribute at least 10 times to the on-line discussion, including at least twice to each of the five course sections. Discussion sections will remain open for the period during which the topics are discussed in class, and will be closed 7 days following the last date of in-
class discussion. Each student is also expected to read and follow the discussions of their classmates.

Contributions may consist of:
(i) asking and proposing an initial response to philosophical questions which probe the reading and engage in further explication and analysis of the text,
(ii) responding thoughtfully to someone else's question,
(iii) suggesting connections between this reading and other course material,
(iv) bring current events and other empirical facts/evidence to bear on the reading.

All of this must be conducted in the effort to better understand the texts and to further our appreciation of the material's strengths and weaknesses. Polemics, ideological shortcuts, and other rather thoughtless and unscholarly contributions will not satisfy this requirement and should be resisted. Proper on-line etiquette is expected; violations will not be tolerated.

Each student must have made a total of 10 contributions to on-line discussion by the end of semester (with at least two to each of the 5 course sections). Further, each student must have read at least ¾ of the available contributions of their fellows to qualify for a satisfactory grade of B- or better (regardless of how many submissions they have made).

**Participation (15pts)**
As this is an upper division class, it should be taken as an opportunity for you to enhance your communication skills. Attendance will be taken each class period, though it will not count toward your grade (it's a way for me to get to know you and see who's coming or not).

I strongly encourage you to come regularly, do the readings ahead of time, and participate in class discussions and activities. To reward your efforts in this regard, this section of the course will be worth 15%. Please take very seriously this component of the course. Suitable performance in this regard consists of more than being present in class. You must be active, both as a listener and as a contributor to the success of the course. Mere attendance in class without contribution to class discussion will result in a minimal participation grade of C- (60% or 9/15).

Arriving late, falling asleep, chatting while others are speaking, and using your cell phone are serious distractions for everyone. Any of these will result in a deduction of 1pt per occurrence. All cell-phones should be turned off during class.

**Case Analysis (5pts)**
This is a short (2pg) assignment in which you will demonstrate your ability to read and analyze legal cases. The assignment is available in WebCT.

**Late Policy**
All essay assignments are due at the beginning of class on the day listed in the course calendar/schedule. Late assignments will be penalized at a rate of 10% per calendar day (not merely class period) beginning with the due date. **After three days, acceptance of the assignment is at the instructor's discretion.** If you know you will not be able to meet a due date, it is your responsibility to consult with the instructor before the assignment is due.
**No extensions, no exceptions.** It is your responsibility to know the due dates and to plan accordingly. Leaving an assignment until the day or two prior is risky and makes you more vulnerable than you already are to factors and events in the universe beyond your control!

**Plagiarism Policy**
Plagiarism is a serious academic offence and will not be tolerated in this class. Always use quotation marks and a footnote/endnote citation to indicate sentences or passages you borrow from another author or source. All resources used to write your essay should be listed properly in the bibliography. Assignments in which plagiarism is found will at the least be graded at 0 (not just an F). ALL incidents of plagiarism will be reported both to the Department Chair and to the Judicial Officer in the Office of Student Affairs for possible further administrative sanction.

*It is your responsibility to be familiar and act in accordance with the University’s policy on plagiarism and cheating!*

**Disability Accommodation**
If you have a documented disability (visible or invisible) and require accommodation or assistance with assignments, tests, attendance, note taking, etc., please see the instructor by the end of the third week of classes so that arrangements can be made. Failure to notify and consult with the instructor by this date may impede my ability to offer you the necessary accommodation and assistance in a timely fashion. Also be sure to consult with the Services to Students with Disabilities (Lassen Hall) to see what other campus services and accommodation options are available for you.

**WEEKLY COURSE OUTLINE**

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<tr>
<th>Date</th>
<th>Topic</th>
<th>Readings</th>
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<tr>
<td>Sept 6</td>
<td>Introductory class</td>
<td>Welcome, personal introductions, discuss syllabus, requirements, etc.</td>
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<tr>
<td>Sept 8</td>
<td>Introductory class</td>
<td>What is law? What does it have to do with us?</td>
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<td>Sept 11-15</td>
<td>Legal Reading</td>
<td>Read: “How to Evaluate a Theory” and “How to Read A Case.” Also read the following cases, Plessy v Ferguson 163 US 537 (1896) and Gitlow v New York 268 US 652 (1925). These are found as pdfs in WebCT.</td>
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<td>Sept 18 - 22</td>
<td>Section One: The Concept of Law</td>
<td>Natural Law Theory</td>
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<td>Read: Sec. I, Ch. 1, pp 29-88.</td>
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<td>Sept 25 - 29</td>
<td>Legal Positivism I (Austen's Commands)</td>
<td>Read: Ch. 2, pp 89-145</td>
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<td>Oct 2 - 6</td>
<td>Legal Positivism II (Hart's Rules)</td>
<td>Read: Ch. 2, 145-178</td>
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<td>☎️ Case Analysis Due Monday, Oct 9 in class.</td>
<td>Essay 1 DUE Monday, Oct 9 in class.</td>
<td>Integrit (Dworkin's Moral Principle)</td>
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<td>Oct 9 - 14</td>
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<td>Read: Ch. 3, pp 179-241</td>
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CASE: Be prepared for an in class discussion of the case *Riggs v Palmer*, 22 N.E. 188 (1889) on Friday.

Oct 16 - 20
Legal Realism
Read: Ch. 4, pp 243-65

CASE: Be prepared for an in class discussion of the case *Lochner v New York*, 198 U.S. 45 (1905) on Friday.

Oct 23 - 27
Feminist Jurisprudence and Critical Legal Theory
Read: Ch 5, pp 267-312

FILM: In-class viewing and discussion of the documentary “Justice for Sale” on Friday.

Essay 2 DUE Monday, Oct 30 in class.

Section Two: Legal Reasoning

★ ROAD TRIP: County/State Court to view a trial. Be sure to make arrangements to spend several hours in transit and at the courthouse. Details TBA.

Oct 30 & Nov 1
Studying Legal Reasoning
Read: Golding, Ch 1, pp 1-35.

Nov 3
Types of Legal Argument: Logical Forms
Read: Golding, Ch 2, pp 35-44.

Quiz #1, in class.

Nov 6
Argument by Analogy & Practical Reasoning
Read: Golding, Ch 2, pp 44-60.

Quiz #2, in class.

Nov 8
Conflicting Decisions
Read: Golding, Ch 2, pp 60-74.
Practice: Read, pp 74-96.

Quiz #3, in class.

Nov 10
Veteran’s Day – Campus Closed, No Classes!

Nov 13 - 17
Precedent & Case Law Development
Read: Golding, Ch 3, pp 97-144.

Quiz #4, in class.

Section Three: Responsibility

Nov 20 - 22
Legal Responsibility, Intentionality and Competence
Read: pp397-449

CASE: Be prepared to discuss the case *R v Shivpuri*, 2 All ER [1986] 334.

Nov 24 - 26 – Thanksgiving Holiday – no classes!

Section Four: Law and Individual Liberty

Nov 27 - Dec 1
Paternalism and Liberty
Read: pp 317-62

Dec 4 - 8
Morality, Liberty, Law
Read: pp 363-94

Essay 3 DUE Monday, Dec 11.

Section Five: International Law

Dec 11 - 15
International Court of Justice
Read: pp 521-47

CASE: Be prepared to discuss the International Court’s Advisory Opinion on Nuclear Weapons Use on Friday.
Congratulations on completing the course!

Options:
- **OPTIONAL Essay 4 DUE Monday Dec 18, NOON.** This is a time sensitive deadline. Late submissions will not be accepted. No exceptions.

- No Final Exam.