PHIL 344 – Introduction to Philosophy of Law  
University of Oregon  
Spring, 2016  
2-3:20 207 Chapman Hall

Instructor: Steven Brence  
Email: brences@uoregon.edu  
Office: 250 Susan Campbell Hall  
Hours: 1-3, Tuesdays (or by appointment)

GTF: Anna Cook, 158B SCH, acook@uoregon.edu

Course Description: This course will move between the theoretical and the practical. It will first introduce students to several major philosophical approaches to the question, "What is the Law?", including Natural Law Theory, Legal Positivism, and Legal Realism, as well as several theoretical challenges to these views such as that offered by Legal Pragmatism, Critical Legal Theory, and Feminist Legal Theory. It will then seek to explore important ways in which these approaches inform operations of the law in respect to some contemporary, and often contentious, social issues, such as the legality of torture, obscenity, and legal protections of privacy.

Required Text: All course readings will be made available for download from the Canvas page associated with the course. Please print them and bring them to class (discussion sections included).

Course Requirements and Grades:

- Three Essays (~5 pp.): 75% (25% each)
- Written Responses, ~1 pg. in length, to selected readings. These will be assigned in class. They are also due in class, the day the relevant reading is discussed in class, and may not be submitted late. Two of these may be missed with no penalty, but none will be accepted late. Extra credit will be granted if all are submitted and of high quality.: 15%
- Attendance and Participation: 10%

Assignment Guidelines: (please read this carefully):

All written work, unless otherwise specified, should be written independently. You are encouraged to discuss all aspects of this course with your fellow students, but the work you turn in must be entirely your own. All materials quoted or referenced in producing your written work must be properly cited. Any confirmed incidence of plagiarism will result, at minimum, in a failing grade for the course. Late essays will be marked down according to degree of lateness. Late responses will not be accepted.
Technology Guidelines:

No electronic devices may be used during class time. This includes all portable computers, tablets, phones, etc. When emailing your instructors, please reference PHL 344 in the topic heading, address the email, use complete sentences, proper punctuation and spelling, and sign your message. Please do email us if we can be of assistance, but do not contribute to the further deterioration of our capacity for language, or to basic standards of politeness and civility, in the process.

Classroom Guidelines:

Class attendance is required. You are expected to arrive before class begins, be respectful and polite to everyone in the room, and to stay until it ends. If you should need to leave before the end of class, please let your instructor know before class begins.

COURSE SCHEDULE*

Week One

Monday, 3/28 - Introduction
Wednesday, 3/30 - Read "The Case of the Speluncean Explorers" by Lon L. Fuller
Friday, 4/01 - Discussion sections

Week Two

Monday, 4/04 - Read from Summa Theologica by Thomas Aquinas
Wednesday, 4/06 - Read "The Morality of Law" by Lon Fuller
Friday, 4/08 - Discussion sections

Week Three

Monday, 4/11 - Read "Positivism and the Separation of Law and Morals" by H.L.A. Hart
Wednesday, 4/13 – Read “Law as the Union of Primary and Secondary Rules” by H.L.A. Hart
Friday, 4/15 - Discussion sections

[Essay #1 assigned]

Week Four

Monday, 4/18 - Read "The Right to Privacy" by Samuel D. Warren and Louis D. Brandeis and "Protect Our Right to Anonymity" by Jeffrey Rosen
Wednesday, 4/20 - Read and "Nothing to Hide: The False Tradeoff between Privacy and Security" by Daniel J. Solove and "Visible Man: Ethics in a World Without Secrets" by Peter Singer
Friday, 4/22 – Discussion sections
Week Five - Privacy


[Essay #1 due]

Wednesday, 4/27 - Read "Roe v. Wade" and "The Bad Decision that Started It All" by Robert P. George and David L. Tubbs

Friday, 4/29 – Discussion sections

Week Six - Kafka, "Before the Law"

Monday, 5/02 - Read "In the Cathedral" from The Trial by Franz Kafka and "Franz Kafka's Outsider Jurisprudence" by Douglas E. Litowitz

Wednesday, 5/04 - Read "Form of Law" from Homo Sacer by Giorgio Agamben

Friday, 5/06 – Discussion sections

Week Seven - Legal Realism & Rights-Based Law

Monday, 5/09 - Read "The Path of the Law" by Oliver Wendell Holmes and "A Realist Conception of Law" by John Chipman Gray

[Essay #2 assigned]

Wednesday, 5/11 – "The Model of Rules" by Ronald Dworkin

Friday, 5/13 – Discussion sections

Week Eight - Marxism, Anarchism, Feminism


[Essay #2 due]

Wednesday, 5/18 - "Four Themes in Feminist Legal Theory: Difference, Dominance, Domesticity, and Denial" by Patricia Smith

Friday, 5/20 – Discussion sections

Week Nine - Obscenity

Monday, 5/23 - Read Roth v. USA and Miller v. California and "Pornography, Civil Rights, and Speech" Catherine MacKinnon

Wednesday, 5/25 - Read and "Fighting the Pornification of America by Enforcing Obscenity Laws" by Orrin Hatch and "Obscenity and the World Wide Web" by John Fee

Friday, 5/27 – Discussion sections

[Essay #3 assigned]

Week Ten - Torture

Monday, 5/30 - Memorial Day
Wednesday, 6/01 - Read "Should the Ticking Bomb Terrorist Be Tortured?" by Alan Dershowitz and "Torturing the Ticking Time Bomb Terrorist: An Analysis of Judicially Sanctioned Torture in the Context of Terrorism" by Chanterelle Sung

Friday, 6/03 – Discussion sections

**Finals Week**

[Essay #3 due]: Monday, June 6th

* I will do my best to stick to this schedule, but reserve the right to change it if necessary. Any changes will be announced in class. Students will be responsible for attending and noting such changes, should they be announced.