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Basic Legal Values Seminar

Description

Although everyone agrees that law promotes some values, what these values are is often unclear and controversial. This is increasingly the case the more we come to recognize cultural diversity and moral pluralism faced by the law. In this seminar we will examine a number of values that have been advanced within the liberal tradition, specifically welfare, autonomy, and dignity, and consider their potential role in shaping or explaining a wide range of legal issues.

The seminar will divide into two parts. In the first, we'll get acquainted with these values in the context of the two main strands in liberal moral theory – utilitarianism and Kantianism – and consider the meaning of these values and their interrelationships. The second part will consist of student presentations on specific substantive topics in which the general issues discussed in the first part arise.

Requirements

In the first part of the seminar, (as of the second week) students will submit short reports on the weekly assignment. The reports will consist of a one-paragraph outline of the argument, followed by 3 short questions for discussion/clarification, and one brief objection to some point/argument made in the reading. The reports have to be emailed to me by 5:00 p.m. on Monday. These reports will form the basis for class discussion, which will consist in part in students explaining various parts of the reading, and raising their questions and objections. Students may be asked to take turns in leading the discussion. In the second part of the seminar, each student will write and present a short paper (10 pages). Drafts of these papers will be circulated to the class in advance of the presentation, and students will be asked to comment on each other's papers. A revised final version is due by the end of the exam period.

Attendance in **all** sessions is mandatory.

Paper Topics

The following is a list of possible topics, though you're welcome to suggest others.

- Sale of human organs
- The regulation of prostitution
- Surrogate motherhood
- The regulation of pornography
- Consent in criminal law
- Suicide, assisted suicide, and refusing life-saving treatment

- The permissibility of euthanasia
- Corporal and capital punishment
- The permissibility of torture
- Violent sports
- The “cultural defense” to criminal liability
- Legal paternalism: smoking, drugs, safety belts and helmets, etc.
- The harm principle and its limits
- Degrading practices: dwarf tossing, cannibalism, sado-masochism, etc.

First assignment

1. **Reading:** a. Murphy and Coleman, *The Philosophy of Law*, pp. 68-82.
 b. Jeremy Bentham, *The Principles of Morals and Legislation*, pp. 1-6.
 c. The entries on *Utilitarianism and Welfare* in the *Routledge Encyclopedia of Philosophy* (available online), or some comparable source.

[The readings will be provided electronically]

No written report is required for the next session.

2. Send me by next Monday at 5, a list of 3 paper topics by order of preference. These can be from the list, or you can suggest some other topics. Note that some of the topics on the list are quite broad or consist of a bunch of items, so you can choose a more focused or partial topic for your paper. Please indicate if you’d prefer to do a joint paper with another student. Depending on the number of students enrolled, some/all students may need to share a paper topic with another student, either by writing a joint paper or by dividing the subject between them.

Enrollment

Whether or not you’re already enrolled in the seminar, let me know by Friday at 4 p.m. that you’d like to take this class. If I don’t hear from you by then, I’ll assume that you’ve decided not to take it. Please include in your message your major, and what philosophy/theory courses you’ve taken in the past.