



UNIVERSITEIT VAN AMSTERDAM

Law, Justice and Morality 1

Syllabus

PPLE 2015-1016

1. Introduction

1.1. General Information

Course number	3801LJ1PVY
Credits in EC	6
Semester, period	Semester 1, Block 2
Instructor	Dr. Roland Pierik

1.2. Content of the course

Objective: The objective of this course is to explore the relationship between law, justice and morality, and to analyze how law relates to the moral values in society and how it is used to advance notions of justice.

Description of content: It is often assumed that law, justice, and morality come together to form a single straightforward, coherent concept. The popular media often suggests, for example, that a constitutional state equals just institutions, and that legal procedures, if they function properly, lead to outcomes that are fair from a moral point of view. However, contrary to these popular views, law, justice and morality are often not at all aligned. For one thing, there are a myriad of theories of justice, each proposing different ways of organizing law and the institutions of the state. Moreover, legal theory tends to emphasize that even unjust law can, in specific instances be legally valid. Finally, Western societies are characterized by a plurality of (religious and secular) ideas of the good life (moralities). The question then becomes: how can law offer just and effective solutions when such moralities conflict.

In this course, we will take a closer look at the concepts of law, justice, and morality, and how these concepts are interrelated. The course revolves around a discussion of dominant philosophies of law, – legal positivism and natural rights theories – and theories of justice and morality – utilitarianism, libertarianism, deontology, egalitarian liberalism, and communitarianism. From these various philosophical approaches, several issues concerning the interrelation between law, justice and morality are discussed, including the following:

- to what extent does law as a system of rules in an actual society reflect ideas about justice and morality and when may specific legal principles demand a deviation from such convictions?
- how does the idea of a just society (justice) relate to various ideas of the good life (morality)?
- how should a just society deal with conflicting versions of morality in a pluralist society?

These discussions start from actual political and legal controversies and issues.

1.3. Intended learning outcomes

At the end of this course students:

- are familiar with, and can *reproduce* the concepts of law, justice and morality as well as the relationship between these concepts;
- have gained insight into and can *explain* the disciplinary aims and structure of law itself (as opposed to morality and justice);
- can *recognize, outline, and apply* the dominant normative philosophies of law, justice and morality and are able to discuss them in an interdisciplinary way;
- can *critically evaluate* the main ideas of these philosophical theories in relation to current political and legal controversies and issues;
- can *recognize and apply* the interconnections between the dominant normative philosophies of law, justice and morality in discussions of political, psychological and economic problems;
- are able to *develop their own ideas* about the relationship between law, justice and morality, and to defend their views with arguments and examples;
- can *demonstrate* the above skills in short and long-form written essays, classroom debates and group presentations;
- can *articulate* their personal moral code and compare it to dominant normative philosophies of law and justice.

2. Practical information

Didactic practices: two weekly lectures (2 x 2 hours) and two tutorials (2 x 2 hours).

Teaching staff

Lecturer:	Roland Pierik	r.pierik@uva.nl
Tutors:	Alison Fischer	a.l.fischer@uva.nl
	Tobias Arnoldussen	N.T.Arnoldussen@uva.nl
	Robert Weaver	R.M.Weaver@uva.nl
	Anna Schmitt Nagelbach	A.K.SchmittNagelbach@uva.nl
	Michelle Oliel	M.Oliel@uva.nl

Law, Justice and Morality I Lectures

Type	Lecturer	Time	Location
Lecture	R. Pierik	Monday 15.00 - 17.00	OMHP F0.01
Lecture	R. Pierik	Thursday 9.00 - 11.00	OMHP F0.01

Law, Justice and Morality I Tutorials

Type	Tutor	Time	Location
Group 1	R. Weaver	Wednesday 13.00 - 15.00	REC-E 2.07
		Friday 15.00 - 17.00	REC-E 2.07
Group 2	R. Weaver	Wednesday 15.00 - 17.00	REC-E 2.07
		Friday 13.00 - 15.00	REC-E 2.07
Group 3	T. Arnoldussen	Wednesday 13.00 - 15.00	REC-E 3.07
		Friday 15.00 - 17.00	REC-E 3.07
Group 4	T. Arnoldussen	Wednesday 15.00 - 17.00	REC-E 3.07
		Friday 13.00 - 15.00	REC-E 3.07
Group 5	A. Fischer	Wednesday 13.00 - 15.00	REC-E 4.07
		Friday 15.00 - 17.00	REC-E 4.07
Group 6	A. Fischer	Wednesday 15.00 - 17.00	REC-E 4.07
		Friday 13.00 - 15.00	REC-E 4.07
Group 7	A. Schmitt Nagelbach	Wednesday 13.00 - 15.00	REC-E 5.07
		Friday 15.00 - 17.00	REC-E 5.07
Group 8	A. Schmitt Nagelbach	Wednesday 15.00 - 17.00	REC-E 5.07
		Friday 13.00 - 15.00	REC-E 5.07
Group 9	M. Oliel	Wednesday 15.00 - 17.00	REC-E 6.07
		Friday 15.00 - 17.00	REC-E 6.07

3. Literature

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* London: Penguin Books.
- Reader with additional literature (available at PPLE Student Desk).

4. Format

Overview of lectures and tutorials: compulsory literature and themes.

Week 1

Lecture 1A (Monday, October 26)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 1) London: Penguin Books.

Theme: What is 'doing the right thing'? General introduction to the themes of the course and a first analysis of the concepts of law, justice and morality and their interrelationships.

Tutorial 1A (Wednesday, October 28)

Mandatory reading:

- Hage, J. & B. Akkermans (Eds.) (2014) *Introduction to Law* (pp. 1-5, 10-11, 37-49) Heidelberg, New York, Dordrecht, London: Springer.

Theme: This tutorial addresses some central distinctions in law, including civil law v. common law; public v. private law.

Lecture 1B (Thursday, October 29)

Mandatory reading:

- Simmonds, N. E. (1986). *Central Issues in Jurisprudence*. (pp. 77-86) London: Sweet & Maxwell.
- Dworkin, R. (1974). "The Model of Rules I". Excerpts of chapter two of *Taking Rights Seriously*, London: Duckworth.

Theme: Law differs categorically from justice and morality in that it is a *formal* system with a specific decision-making procedure and a recognized authority that can settle all its controversial questions. This lecture analyses the most-influential *Hart-Dworkin debate* in legal philosophy to explain this formalistic character of law.

Tutorial 1B (Friday, October 30)

Mandatory reading:

- Aldisert, R., Clowney, J. S., & Peterson, J. D. (2007-2008). Logic for Law Students: How to Think Like a Lawyer. *University of Pittsburg Law Review*, 69(1), 1-22.
- Kerr, O. S. (2007) How to Read a Case, *The Green Bag*, 11(2), 51.

Theme: In certain respects, legal analysis differs categorically from political theory, political science or economics. This tutorial explains some particularities of the legal discipline.

Week 2

Lecture 2A (Monday, November 4)

Mandatory reading:

- Pierik, R. Mandatory Vaccination: An Unqualified Defense, *Amsterdam Law School Research Paper* No. 2015-08.

Theme: When law and morality collide: How should government react to parents who refuse to vaccinate their children and, thus, might potentially endanger public health?

Tutorial 2A (Wednesday, November 6)

Mandatory reading (all short internet publications):

- Bob Sears (Dr Bob) *Mandatory vaccination is not the answer to measles*
- Jennifer Margulis *Parents Deserve to Have a Choice About Vaccination*
- Karen Ernst *You Do Not Own Your Children*
- David Elliman & Helen Bedford *Should the UK introduce compulsory vaccination?*
- Olga Khazan *Wealthy L.A. Schools' Vaccination Rates Are as Low as South Sudan's*

Theme: should government really make vaccination compulsory?

Lecture 2B (Thursday, November 7) Guest lecture Dr. Gijs van Donselaar (Department of Philosophy, UvA)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 2) London: Penguin Books

Theme: Utilitarianism

Tutorial 2B (Friday, November 8)

Mandatory reading:

- Singer, P. (1972). "Famine, Affluence, and Morality." *Philosophy and Public Affairs* 1 (3): 229-243.

Theme: A utilitarian defense of global justice.

Week 3

Lecture 3A (Monday, November 9)

Mandatory reading:

- Mill, J. S. (1859). *On Liberty*, chapter I-III, excerpts.
- J. Waldron, (2012) *The Harm in Hate Speech*, (pp. 77-89) Cambridge: Harvard University Press.

Theme: John Stewart Mill further developed Bentham's utilitarian theory of liberty. This lecture will analyze Mill's *On Liberty*, and focuses on two elements in particular: his 'harm-principle' that

explicitly limits law and state intervention and Mill's elaboration of the harm-principle into a defense of freedom of speech. Waldron presents quite a different interpretation of harm in the context of the freedom of speech and hate speech.

Tutorial 3A (Wednesday, November 11)

- Mill, J. S. (1859). *On Liberty*, chapter I-III, excerpts.
- *Snyder v Phelps*, 131 S. Ct. 1207 (2011) United States Supreme Court
 - Opinion of the Court, as delivered by Chief Justice Roberts.
 - Dissenting opinion by Justice Alito.
- J. Waldron, (2012) *The Harm in Hate Speech*, (pp. 77-89) Cambridge: Harvard University Press.

Theme: Discussing the freedom of speech in legal practice.

Lecture 3B (Thursday, November 12) Guest Lecture Dr. Thomas Nys (Department of Philosophy, UvA)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 5) London: Penguin Books.

Theme: Deontology and the intrinsic worth of human beings.

Tutorial 3B (Friday, November 13)

Mandatory reading:

- Excerpts from the *Convention Against Torture* (1984)
- 8 U.S. Code § 2340 –
- Torture Utilitarian Argument Against Torture: Remarks by President Barack Obama
- "Andre and Magda Trocme", Wikipedia, available at http://en.wikipedia.org/wiki/Andre_and_Magda_Trocme
- Excerpts from Hallie, P. P. (1979). *Lest Innocent Blood Be Shed: The Story of Le Chambon and How Goodness Happened There*, New York: Harper & Row, pp. 38-44, 119-128, 283-287.

Mandatory viewing:

- Deontological and Utilitarian Arguments About Torture: German Missing Child Case: Michael Sandel interviews Dieter Grimm, Caroline Emcke, and Peter Singer, available at <https://www.youtube.com/watch?v=7FR-FuhN2HM> (6:37).

Theme: Deontology in practice – discussing some thorny dilemmas.

Week 4

Lecture 4A (Monday, November 16)

- Pogge, T. (2011). "Are We Violating the Human Rights of the World's Poor?" *Yale Human Rights & Development Law Journal*, 14 (2), pp.1-33.

Theme: A deontological – i.e. human rights based – defense of global justice.

Tutorial 4A (Wednesday, November 18)

Mandatory reading:

- Pierik, R. (2015). Human Rights and the Regulation of Transnational Clinical Trials. *Political Studies* 63 (4), pp.870–886.

Theme: Comparing utilitarian and deontological defenses of global justice.

Lecture 4b (Thursday, November 19)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 6) London: Penguin Books.
- Rawls, John. 1999. *A Theory of Justice rev. ed.* Oxford: Oxford University Press. Original edition, 1971: 3-19, 52-56, 118-123.

Theme: John Rawls' liberal egalitarianism.

Tutorial 4B (Friday, November 20)

Mandatory reading:

- *James Obergefell, et al., Petitioners v. Richard Hodges et al., Supreme Court of the United States, Case No. 576 U.S. ____ (decided 26 June 2015).*
- *Brown v Bunham, District Court of Utah, Case No. 2:11-CV-0652-CW, (decided 13 December 2013).*

Theme: Biting the egalitarian bullet? Marriage equality.

Week 5

Lecture 5A (Monday, November 23)

Mandatory reading:

- Dworkin, Ronald. 1993. "Justice in the Distribution of Health Care." *McGill Law Journal* 38 (4), pp. 883-898.

Theme: Dworkin built upon Rawls' theory – especially his difference principle – and developed a theory of health care justice that could be considered a normative underpinning of Obama care.

Tutorial 5A (Wednesday, November 25)

Mandatory reading:

- Dworkin, R. (1977). Why Bakke has no case. *New York Review of Books*, 24 (Nov 1977).

Theme: Affirmative action in practice: admission to university – including the PPLE program.

In the Justice in the *Distribution of Health Care* article, Dworkin discusses the choice-chance distinction: which elements of your situation are the result of your own choice and achievement and which are the result of your (unchosen) natural and societal circumstances? This is an ideal theoretical background to discuss privilege and admission to university.

Lecture 5B (Thursday, November 26)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 3) London: Penguin Books.
- Nozick, R. 1974. *Anarchy, State and Utopia*, (pp. 149-164, 174-182) New York: Basic Books.
- Murphy, L., & Nagel, T. (2004). *The Myth of Ownership. Taxes and Justice*. (pp. 31-37) New York: Oxford University Press.

Theme: (1) Libertarianism – determining the limits of government and law (2) the limits of libertarianism and the cost of rights: Does liberty depend on taxes?

Tutorial 5B (Friday, November 27)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 3) London: Penguin Books.
- Sally, S. (2014, May 3). Why People Don't Donate their Kidneys, *New York Times*.

Theme: Markets and morals in practice – Limits of self-ownership and the commodification of non-market goods.

Week 6

Lecture 6A (Monday, November 30) Guest Lecture Tobias Arnoldussen (University of Amsterdam Law School & PPPE)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 8) London: Penguin Books.

Theme: Aristotle.

Tutorial 6A (Wednesday, December 2)

Mandatory reading:

- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 9) London: Penguin Books.

Theme: Dilemmas of loyalty: Aristotle and cheerleaders.

Lecture 6B (Thursday, December 3)

Mandatory reading:

- Kymlicka, W. (2007). Community and Multiculturalism. In R. E. Goodin, & P. Pettit, & T. Pogge (Eds.), *A Companion to Contemporary Political Philosophy* (2nd ed.) (pp. 463-478). Oxford: Blackwell.
- Sandel, M. J. (2009). *Justice: What is the Right Thing to Do?* (Chapter 10)

Theme: Justice and The Common Good: majority values and the rights of minorities.

Tutorial 6B (Friday, December 4)

Mandatory reading:

- McIntosh, P. (1989 July-August) White Privilege: Unpacking the Invisible Knapsack. *Peace and Freedom Magazine*, pp. 10-12.
- Haslanger, S. (2000). Gender and Race: (What) Are They? (What) Do We Want Them to Be? *Noûs* 34(1), 31-55.

Theme: Awareness of privilege.

Week 7

Lecture 7A (Monday, December 7)

Mandatory reading:

- Joppke, C. (2013). A Christian identity for the liberal state? *The British Journal of Sociology*, 64(4), pp. 597-616, excerpts.
- Miller, D. (2014). "Majorities and Minarets: Religious Freedom and Public Space." *British Journal of Political Science* Early view. doi: 10.1017/S0007123414000131.

Theme: State neutrality and biased historic alliances.

Tutorial 7A (Wednesday, December 9)

Mandatory reading:

- Weiler, J. (2010). Lautsi: Crucifix in the Classroom Redux (Editorial). *The European Journal of International Law*, 21(1), pp. 1–6.
- Pierik, R. (2012). State Neutrality and the Limits of Religious Symbolism. In J. Temperman (Ed.), *The Lautsi Papers: Multidisciplinary Reflections on Religious Symbols in the Public School Classroom* (pp. 201-218). Leiden, Boston: BRILL/Martinus Nijhoff.

Theme: State neutrality and historic alliances in practice – Do Crucifixes belong in classrooms of public schools?

Lecture 7B (Thursday, December 10)

Mandatory reading: none

Theme: *This is the end...* Wrapping up the course, a final attempt to connect the dots and prepare for the final exam and paper.

Tutorial 7B

No tutorial; tutors have office hours.

5. Assessment

Examination Scheme

Component	Deadline	Weight	Minimum grade	Compensable	Resit
Short Essays (x3)*	Unknown	30%	NA	N/A	N/A
In-class presentation**	Flexible	10%	NA	N/A	N/A
Final Exam***	***	70%	5,5		Yes

***Short Essays** – Students will write a short thought paper each week in response to a question related to the readings and bring a copy of the essay in print to class. These assignments will be published at least two weeks ahead on BlackBoard. Three of these essays will be graded, but students will not be told in advance which of the weekly assignments these will be. Thus it is to your advantage to write each paper as if it is for a grade. All students will be graded on the same week's assignments. Grading will reflect the following components:

- Answer to the question presented
- Demonstrated knowledge of assigned readings
- Structure and clarity of answer

****In-Class Presentation** – Beginning in Week Two, two (or three) students will be assigned to prepare in-class summaries and discussions on the assigned readings and questions for the week. One student (the presenter) will open the Monday (Tutorial A) discussion with a presentation on the relevant topics and literature (~10min). The other (the discussant) will then give constructive feedback on the presentation and pose questions to the presenter (~5min). The rest of the class will then be able to ask questions and join the conversation. On Thursday (Tutorial B), the presenter and discussant will switch roles. Grading will reflect:

- Answer to the question presented
- Demonstrated knowledge of the assigned readings, including connections between the readings and to larger themes of the course
- Creativity and effectiveness of overall presentation

***** Final Exam** – DATE, PLACE . This exam consists of two parts. The first part is a closed book exam focusing on the readings in the course. You will be required to provide concise answers to direct questions over the required reading materials. The second part of the exam focuses on longer essay questions. This part of the exam is open book.

In order to complete the course, the total average of the final exam should be 5.5 or higher.

3. Attendance

The bachelor PPLE requires that all students be present in class. More than 10% absence can result in receiving no credit for the module. For the benefit of everyone in the classroom, all classes will start punctually at the scheduled time. Students who are late might find a closed door. Being late twice will be noted as missing one tutorial.

5. Fraud and Plagiarism

This course uses the 'Regulations Governing Fraud and Plagiarism for UvA Students.' For more information, see <http://www.student.uva.nl/preventfraud-plagiarism>

6. More information

This course has a Blackboard website. Here you can find the necessary information like the group information of your tutorials, the assignments. Look at this website regularly.

You are registered for this course via SIS. This means that you are automatically registered for exams that are part of this course. For more information about SIS visit: www.student.uva.nl/sis .