

## **RELIGION and POLITICS (PO 35102)**

### **LAW AND MORALITY (PL 45401)**

**FALL , 2013      4 Credits**

Instructor: JUDGE JAMES V. MENNO      email: .james.menno@jud.state.ma.us  
Office: by appointment      Office Hours: prior class  
Telephone: 508-897-5444 Brockton Courthouse  
Schedule: Wednesday 6:30-9:00 p.m.      Sept. 4<sup>th</sup> to Dec. 11<sup>th</sup> 2013  
Room: Stokes Hall 117 (S)

#### **Boston College Mission Statement**

Strengthened by more than a century and a half of dedication to academic excellence, Boston College commits itself to the highest standards of teaching and research in undergraduate, graduate and professional programs and to the pursuit of a just society through its own accomplishments, the work of its faculty and staff, and the achievements of its graduates. It seeks both to advance its place among the nation's finest universities and to bring to the company of its distinguished peers and to contemporary society the richness of the Catholic intellectual ideal of a mutually illuminating relationship between religious faith and free intellectual inquiry.

Boston College draws inspiration for its academic societal mission from its distinctive religious tradition. As a Catholic and Jesuit university, it is rooted in a world view that encounters God in all creation and through all human activity, especially in the search for truth in every discipline, in the desire to learn, and in the call to live justly together. In this spirit, the University regards the contribution of different religious traditions and value systems as essential to the fullness of its intellectual life and to the continuous development of its distinctive intellectual heritage.

#### **Course Description**

##### **PO 35102 Religion and Politics/PL 45401 Law and Morality**

What is the relationship between man-made law created by the courts and the legislature and moral and religious values? Is there a religious and moral foundation to our civil law? What do we do when confronted by a "wrong" law such as segregation? This course, taught by a sitting family court judge, compares the classic moral thinking of such authors as Plato, Aristotle, Aquinas, Mill and Hart to actual Constitutional decisions on such issues as the war on terror, capital punishment, same sex marriage, sexual privacy, discrimination, the right to refuse medical treatment; racism and civil disobedience.

#### **Course Objectives**

1. Students will learn to understand the legal process of adjudication.
2. Students will learn to understand the relationship between legal decisions, statutes, the Constitution, and moral values and principles.

3. Students will develop a personal understanding of their own moral code and a self-realization of making moral judgments in determining legal problems.
4. Students will demonstrate knowledge of the law and morality across-cultural settings and will learn the impact of culture, gender and age on the law as demonstrated by actual appellate case law.
5. Students will develop and understand ethical knowledge and its role in legal decision-making.

### **Grading**

This course consists of lecture; class discussion; group exercises; and mandatory one day attendance at the Probate and Family Court sitting in Brockton or Plymouth. Students shall read appellate legal decisions and philosophical and ethical essays and text. There are no papers. There is a midterm examination and a final examination. The exam questions consist of five hypothetical situations relating to legal and ethical dilemmas.

Class attendance is mandatory and critical to success in this course. If a student does not attend the majority of classes, said student shall receive an F grade.

A student's grade is based on class attendance and participation (25%); midterm examination (25%); and final examination (50%).

#### *WCAS Grading System*

The undergraduate grading system consists of twelve categories: A (4.00), A- (3.67), excellent; B+ (3.33), B (3.00), B- (2.67), good; C+ (2.33), C (2.00), C- (1.67), satisfactory; D+ (1.33), D (1.00), D- (.67), passing but unsatisfactory; F (.00), failure; I (.00), incomplete; F (.00), course dropped without notifying office; W (.00), official withdrawal from course. The graduate grading system is A (4.00), A- (3.67), Excellent; B+ (3.33), B (3.00), good; B- (2.67), C (2.00), passing but not for degree credit; F (.00), failure.

Grade Reports. All students are required to log into the web through Agora to access their semester grades. Students must utilize their BC username and password to log on. If your username or password is not known the HELP Desk located in the Campus Technology Resource Center (CTRC) in O'Neill Library will issue a new one. The CTRC requires a valid picture ID (a BC ID, driver's license or passport) to obtain your password.

### **Text(s)/Required readings**

1. Law and Morality, edited by Dyzenhaus, Moreau and Ripstein, third edition, University of Toronto press, 2007.
2. Additional readings and case decisions available on Internet.

### **Text(s)/Readings (Recommended)**

Complete appellate decisions available on Internet.

### **Important Policies**

#### Written Work

Graduate and undergraduate students are expected to prepare professional, polished written work. Written materials must be typed in the format required by your instructor. Strive for a thorough, yet concise style. Cite literature appropriately, using APA, MLA, CLA format per instructors decision. Develop your thoughts fully, clearly, logically and specifically. Proofread all materials to ensure the use of proper grammar, punctuation, and spelling. You are encouraged to make use of campus resources for refining writing skills as needed [<http://www.bc.edu/libraries/help/tutoring.html>].

#### Scholarship and Academic Integrity

It is expected that students will produce original work and cite references appropriately. Failure to reference properly is plagiarism. Scholastic dishonesty includes, but is not necessarily limited to, plagiarism, fabrication, facilitating academic dishonesty, cheating on examinations or assignments, and submitting the same paper or substantially similar papers to meet the requirements of more than one course without seeking permission of all instructors concerned. Scholastic misconduct may also involve, but is not necessarily limited to, acts that violate the rights of other students, such as depriving another student of course materials or interfering with another student's work.

#### Request for Accommodations

If you have a disability and will be requesting accommodations for this course, please register with either Dr. Kathy Duggan ([dugganka@bc.edu](mailto:dugganka@bc.edu)), Associate Director, Connors Family Learning Center (learning disabilities or AHD) or Dean Paulette Durrett, ([paulette.durrett@bc.edu](mailto:paulette.durrett@bc.edu)), Assistant Dean for students with disabilities, (all other disabilities). Advance notice and appropriate documentation are required for accommodations. <http://www.bc.edu/content/bc/libraries/help/tutoring/specialservices.html>.

## Attendance

Class attendance is an important component of learning. Students are expected to attend all classes and to arrive by the beginning of and remain for the entire class period. When an occasion occurs that prevents a student from attending class, it is the student's obligation to inform the instructor of the conflict before the class meets. The student is still expected to meet all assignment deadlines. If a student knows that he or she will be absent on a particular day, the student is responsible for seeing the instructor beforehand to obtain the assignments for that day. If a student misses a class, he or she is responsible for making up the work by obtaining a classmate's notes and handouts and turning in any assignments due. Furthermore, many instructors give points for participation in class. If you miss class, you cannot make up participation points associated with that class. Types of absences that are not typically excused include weddings, showers, vacations, birthday parties, graduations, etc. Additional assignments, penalties and correctives are at the discretion of the instructor. If circumstances necessitate excessive absence from class, the student should consider withdrawing from the class. In all cases, students are expected to accept the decision of the instructor regarding attendance policies specific to the class.

Consistent with our commitment of creating an academic community that is respectful of and welcoming to persons of differing backgrounds, we believe that every reasonable effort should be made to allow members of the university community to observe their religious holidays without jeopardizing the fulfillment of their academic obligations. It is the responsibility of students to review course syllabi as soon as they are distributed and to consult the faculty member promptly regarding any possible conflicts with observed religious holidays. If asked, the student should provide accurate information about the obligations entailed in the observance of that particular holiday. However, it is the responsibility of the student to complete any and all class requirements for days that are missed due to conflicts due to religious holidays.

There may be circumstances that necessitate a departure from this policy. Feel free to contact the WCAS at 617-552-3900 for consultation.

## **Course Assignments** (readings, exercises and/or experiences)

This is a (4) four credit class that meets for two hours and 30 min. In addition, each student will spend an entire day at the Brockton or Plymouth Probate and Family Court attending my court session and having a brown bag luncheon with myself to discuss the cases and issues that you hear in court that day. Specific days will be assigned at the beginning of the course.

It is expected that eight hours per week of your study time will be spent on out of class reading and exercises. The schedule of topics and assignments are listed below. Please note that some weeks will require more time and some weeks less time, but the average is approximately 8 hours per week over the semester.

Students are expected to complete the following out of class course assignments:

### **COURSE OUTLINE**

- 9/4/13**                    **INTRODUCTION TO COURSE: WHAT IS LAW?  
WHAT IS MORALITY?**
- 9/11/13**                    **LEGAL POSITIVISM - H.L.A. HART**  
Riggs. V. Palmer (1859) P. 140-146  
Reading:                    Hart: "Positivism and the Separation of Law and  
Morals" (1958) pp. 28-53;
- 9/18/13**                    **INTEGRATION OF LAW AND MORALITY - LON L.  
FULLER**  
The Queen v. Dudley and Stephens (1884) p. 154-158  
Reading:                    Fuller: "Positivism and Fidelity to Law" (1958) pp. 67-  
108   PLATO, THE APOLOGY (399 B.C.)
- 9/25/13**                    **THE ADJUDICATION PROCESS**  
Harvard College v. Canada (2002) pp. 158-161  
North Carolina vs. Mann (handout)  
Commonwealth v. Aves (1836) pp. 182-185  
Reading:                    Dworkin "Law's Ambitions for Itself" (1985) pp. 108-121  
Aristotle, Nichomachean Ethics (330 B.C.)
- 10/2/13**                    **NATURAL LAW and Legal Realism**  
Readings:                    R.V.S. (1997) p. 282-290  
Lavalee v. The Queen p. 290-304  
Holmes, The Path of the Law (1897)

- 10/09/13**                    **LAW AND VALUES: LIBERTY**  
 Reading:                    John Stuart Mill "On Liberty" (1859) pp. 306-326  
                                   Bowers v. Hardwick (1986) p. 505-508  
                                   Lawrence v. Texas (2003) p. 508-512  
                                   R. V. Malmo-Levine; R.V. Caine (2003) p. 326-330
- 10/16/13**                    **MID TERM EXAM**
- 10/23/13**                    **THE CRIMINAL LAW AND CAPITAL PUNISHMENT**  
 Reading:                    Herman Melville, Billy Budd, Sailor (1924) pp. 167-175  
                                   "God's Justice and Ours" Justice Scalia  
                                   Aquinas, Human Law, Summa Theologica (1270) A.D.
- 10/30/13**                    **GUEST LECTURER: JUDGE JOHN CONNOR, RET.**  
 Massachusetts Superior Court: On Sentencing in  
 Criminal Matters
- 11/06/13**                    **THE LAW'S RELATIONSHIP WITH DEATH**  
 (Physician Assisted Suicide, Termination of Medical  
 Treatment)  
 Reading:                    Washington v. Glucksberg (1997)
- 11/13/13**                    **SAME SEX MARRIAGE,**  
 Goodridge v. Department of Public Health (2003)
- 11/20/13**                    **NO CLASS THANKSGIVING EVE**
- 11/27/13**                    **TERRORISM AND THE RULE OF LAW**  
 Reading:                    Public Commission Against Torture in Israel vs.  
 Government of Israel (1999)
- 12/4/13**                    **RELIGION and CIVIL DISOBEDIENCE**  
 Reading:                    "Moral Duty and the Rule of Law" William H. Pryor, Jr.  
 A letter from a Birmingham jail, Martin Luther King, Jr.
- 12/11/13**                    **FINAL EXAM**