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SP09  
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LS 190.2

## 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.

### *Readings*

In the first part of the seminar we'll discuss items mostly from the following list (articles and chapters from books):

#### **Background: Utilitarianism and Kantianism**

Encyclopedia entries or other general introductions

#### **Welfare and well being**

L. W. Sumner, *Welfare, Happiness, & Ethics*

#### **Autonomy**

Gerald Dworkin, *The Theory and Practice of Autonomy*

Thomas Hill, "The Importance of Autonomy"

Meir Dan-Cohen, "Conceptions of Choice and Conceptions of Autonomy"

#### **Dignity**

Ronald Dworkin, "Liberalism"

Robert Goodin, "The Political Theories of Choice and Dignity"

Meir Dan-Cohen, "Defending Dignity"

Martha Nussbaum, "Objectification"

Margaret Radin, *Contested Commodities*

(turn over)

## ***Paper Topics***

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

- Surrogate motherhood
- Sale of human organs
- The regulation of prostitution
- The regulation of pornography
- The regulation of sado-masochism
- Consent in criminal law
- Assisted suicide and refusing life-saving treatment
- The permissibility of euthanasia
- Corporal punishment and the death penalty
- The "cultural defense" to criminal liability
- Female genital mutilation
- Legal paternalism (smoking, drugs, safety belts and helmets, etc.)
- The permissibility of torture
- Involuntary parenthood
- Cloning and stem cell research

## ***Requirements***

In the first part of the seminar, (as of the second week) students will submit short reports (2-3 pages) on the weekly assignment, and may be asked to take turns in leading the discussion. The reports should state briefly the main points in the week's reading, make some critical comments, and raise some questions about it. Each report is due by 1:00 p.m. on Sunday. Late reports will not be accepted.

In the second part of the seminar, each student will write and present a short paper (about 15 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.

Because of the structure of the seminar, attendance in **all** sessions is mandatory. (There will be one grace absence **for a reason**.)

## ***First assignment***

1. Murphy and Coleman, *The Philosophy of Law*, pp. 68-82.

The entries on *Utilitarianism* and on *Immanuel Kant's moral theory*, in the *Routledge Encyclopedia of Philosophy* or the *Stanford Encyclopedia of Philosophy* (both available on the web), or some comparable source.

**No written report is required for the next session.**

2. Send me by next Sunday at 1, 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.