

Course Syllabus

POEC 6329: Ethics, Culture, and Public Policy

(Syllabus is subject to adjustment as we proceed. Check here for Updates.)

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2016

Fall

Office hours are one hour before class, in my office, or by appointment.

There are no prerequisites or co-requisites.

Last updated 18 Aug 2016

The url for the syllabus on my personal website is:

<http://murrayleaf.org/poec6329.htm> This is the link you should use for the class. I will put copies on eLearning and on Course lookup as well, but these do not support the links effectively. But you can use eLearning to communicate with each other.

If you have already taken PA/POEC 5308 with me, you should not take this course. They will be too much alike. Discuss adjustments with your advisor. The main differences are that I will now put somewhat more emphasis on issues of social science and legal theory rather than public administration, and I will assure that everyone in the class participates in the discussions by calling on people if they do not speak up on their own. Grading standards will also be just a little more rigorous, particularly with respect to what is minimally acceptable.

The course considers two major recurrent views of ethics that we find in all of the principle schools of ethical thought in the world's major cultural traditions. These two views of ethics correspond to two broad understandings of human nature and human society in general.

The fundamental problem of ethics is to distinguish good behavior from bad behavior, and of course good rules and policies from bad rules and policies. Since there is little point asking "What is right for me?" without asking also "What is right for others?" and this in turn from "How can we enforce it?" important questions in ethics have

always been tied to fundamental questions about the nature of society and law. Therefore, the basic literature on ethics is also the basic literature of legal theory and social theory in general. The topics are inseparable from one another. You will see why in concrete detail as we proceed.

One of the most basic questions in ethics and in social theory generally is whether the rules of behavior are situational or absolute. Are there absolute or universal rules, or does it always “depend the situation”? If there are absolute rules, what are they? If everything depends on the situation, what does this mean? Is anything right if people think it is? Related topics that will be considered as we proceed are motivations and sanctions; tensions between personal and collective goals; the nature and limits of tolerance; the ethical role of institutions such as the family, government, business, churches and interest groups;

What we will find is that in all cultures and times, there are always some arguments for the need for clear and fixed rules, but the dominant opinion has been that ethics can only be situational. The most basic principles of ethics cannot be iron rules of behavior of the form “Always do Y” or even “In circumstance X you follow rule Y.” Rather, they have to be more like, “To deal with a situation properly and effectively, you have to place yourself in the positions of each of those involved and ask what principles they might have acted on that all the others involved would feel bound to accept.” The implication is that to make proper ethical judgments about a situation you must first be able to analyze it empirically and reflexively, from all the perspectives involved. This is not necessarily easy but there are very definite ways to do it, which will be described.

Each of the main views of ethical judgments has a parallel and related view of factual judgment. The counterpart of the situational view of ethics is the experimentalist view of science, and the counterpart of the absolutist view of ethics is what is sometimes called the “dogmatic” or deductivist view of science. These parallels are not simply my own classifications. You will see the association in the readings. Our problem for the class is not to just see the relationship, however. That is plain enough. Our problem for this course, and in life if we have responsible positions, is to understand the underlying logic that holds the two sets of ethical and scientific views together.

The format is seminar-discussion, focusing on readings dealing with the ethics of administrative positions of public trust through history and across cultures. The readings in the first half can be regarded as

"pure" ethics--ethics by themselves. The second half focuses on ethics in law.

You will have two take-home examinations, one paper proposal, and one paper. The proposal is not graded but it is important. When the time comes, the proposal should be sent to me by email. I will pick a few to discuss in class (depending on the class size; if possible, we will discuss them all). The paper should ideally be based on the proposal, but if you decide to change your mind you can. The main reason for doing the proposal is that it helps form an idea of what topics really are workable.

For details of the paper assignment, including guidelines for avoiding plagiarism, [click here.](#)

I will try to make recordings of the class discussions and post them here so they can be downloaded. The format is mp3. [Click here](#) for a page of links to the recordings. I will label them by date. The same page has links to the recordings from Fall 2013. I don't guarantee to provide them, and they are not nearly as good as attending.

Many readings are in JSTOR. As students, you can download them from the library at no charge. I cannot link to them here because of copyright restrictions. I have indicated which readings are in JSTOR by putting this by them in the syllabus, but I have not always been consistent because some can be found in multiple places and it would be too messy to try to say everything. Some readings are on the web and not under copyright restrictions. In these cases, I have put links in the syllabus. Readings that are not on the web will be in the bookstore. If you have trouble finding any reading, please email me. Links have a way of breaking on their own. Other students are probably having the same problem.

None of this is kid stuff. The readings include some of the most important arguments in the development of social science and modern social, political and legal theory. ALWAYS BRING THE READINGS TO CLASS. I don't care if it is printed or on a laptop or tablet. But if you bring them on a computer, don't allow yourself to wander on it and create distractions. The readings are not very voluminous for a graduate course, but they are dense and serious. They require critical thought. You should read them before class but do not be surprised if you feel that you do not understand them very well. In class you will understand them better. And if you then read them again after the class, within a day or two, you will understand them better still and they will probably stick.

The topics toward the end of the term are not absolutely fixed. We can alter them once you get a sense of the approach, and also to explore alternative ideas that may come up in the class--or in the world.

Links have a way of dying or moving. If you encounter bad links while trying to get to the readings or recordings, please [email me](#).

For accreditation, the Southern Association of Colleges and Schools requires all courses at UTD to state specific "Student Learning Objectives/Outcomes." For this course, the objectives are:

Objective 1. To provide a general consideration of principle schools of ethical thought, the interactions between personal behavior and cultural groups/norms, and the implementation of public responsibility.

Objective 2. To show how ethical theories are related to law.

Objective 3. To discuss alternative epistemologies of ethical, legal, and scientific theories.

Objective 4. To enable students to analyze actual decisions from one or more ethical perspectives.

This should not be understood as precluding the more general objectives of all graduate courses, namely to read and master the material, learn the kind of critical thinking that it requires, and to understand how one can conduct research on these topics.

Required Textbooks and Materials

BOOKS

***Protagoras* by [Plato](#) Stanley Lombardo, Karen Bell. Publisher: Hackett Pub Co; (March 1992) ISBN: 0872200949**

(http://www.amazon.com/Protagoras-Plato/dp/0872200949/ref=sr_1_1?s=books&ie=UTF8&qid=1378839851&sr=1-1&keywords=plato+lo)

Grube, G. M. A. Trans., *Plato Five Dialogues: Euthyphro, Apology, Crito, Meno, Phaedo* -- by G.M.A. Grube (Translator); Hackett Paperback 6.95 @ Amazon. ISBN 0-915145-22-7 The second edition (newly out) is also ok. ISBN: 0872206335

Kant, E. 1964. *Groundwork of the Metaphysics of Morals*. Harper Collins (Used) ISBN : 0061311596 (Be sure to get the Paton translation.)

Mill: *Utilitarianism*. George Sher (Editor); Hardcover. Price at Amazon is \$3.95 ISBN: 087220605X

Suggested Course Materials

None

Date and Topic. Dates are dates for the class. THESE DATES ARE FROM 2014; 2015 WILL PROBABLY BE DIFFERENT BY A DAY OR SO. Numbered heads indicate separate readings or groups of readings to be covered in separate class discussions. Most readings have separate numbers, meaning we will discuss them separately. Where a few are listed after a single number, it means we will discuss them together.

I have tried to use bold for the readings and regular font for my comments. Titles of works are italicized.

Aug 23. Introduction

A major theme of the course is that there are two main models of ethics and ethical systems that recur in all cultures and all times. They are also models of political systems. I will describe them today. In that context I will also discuss Roman law. There are two reasons for beginning with this. The first is that in practice, most ethical problems we have as people with public responsibilities, or as scholars trying to understand public decision-making, arise in relation to law. The second is that it is in Roman law that we in the West first see these two major opposed views of ethics given legal form, which establishes the general relationship between ethics and law that we still live with. For many of you this will be new material, and we will not have time to go through it very thoroughly. For a more systematic description of what I describe in class, [click here](#).

Aug 30: Outside the Western tradition:

The speech of Chief Seattle.

1. Chief Seattle's speech of 1854, on the nature of a public trust. There is an inauthentic speech and an authentic speech. Be sure you have the authentic one. He is talking about ethics and culture, not ecology. <http://www.halcyon.com/arborhts/chiefsea.html>

2. Chinese Ethical Thought: Confucianism versus Legalism.

These are radically opposed to one another. Ask yourself what American or Western positions each of them corresponds to. What are our versions of each of the major ideas stated?

Confucius: ***The Analects***. The role of the official, and the place of education in preparing for it. These are selections from the MIT website that we will discuss in class: [analectsMIT.PDF](#)

Han Fei Tzu: Legalism.

<http://acc6.its.brooklyn.cuny.edu/~phalsall/texts/hanfei.html>

3. Indian Ethical Thought: the *Bhagavad Gita*: Karma Yoga.

Yoga means devotion. Karma means action and the results of action. Karma Yoga therefore means the Yoga of Action. The relevant section on the web as of 30 Aug 2003 is from the beginning down through the paragraph :

"Therefore, without being attached always perform the action to be done. Practicing action without being attached, a person attains the supreme. By action Janaka and others attained perfection. You also observing what the world needs should act."

This is highly compressed reasoning. Read it carefully and try to imagine each scene and situation, then ask what in your own life it corresponds to.

<http://www.san.beck.org/Gita.html>

Sep 6 Western Foundations: Plato and Socrates versus the Sophists.

The topic is the conflict between the Sophists and the Socratics, relativism and absolutism (as presented in Plato's dialogues). These readings introduce the first Western versions of the two perspectives that make up the main themes of the course: the choice between an absolutist ethics and situational ethics. Protagoras and Meno represent the position of the Sophists, who argue for situational ethics and, by implication, democracy. Socrates argues for absolutist ethics and, by implication, authoritarianism. Plato, as the author of the dialogues, was a staunch supporter of Socrates. It was not the custom at the time to represent the views of one's opponents fairly. In this case, however, Protagoras was a very famous Sophist and his views were very well known, and Plato appears to represent his views and those of Socrates in a relatively balanced way. The *Apology*, *Crito*, and *Phaedo* are pure Socrates and in them Plato makes the case for absolutism, and for Socrates, as favorable as he possibly can.

4. The *Protagoras* is in Off Campus Books and also on the web at

<http://eserver.org/philosophy/plato/protagoras.txt>

The *Meno*, *Apology* and *Crito* are in *Plato Five Dialogues: Euthyphro, Apology, Crito, Meno, Phaedo* -- by G.M.A. Grube (Translator); Paperback 6.95 @ Amazon. I also recommend that you read *The Phaedo*.

Sep 13 . Medieval Absolutism: The Aristotelian Tradition and Aquinas.

Platonism gave rise to Aristotelianism, and both of these were absorbed into the broad Hellenistic synthesis that dominated Mediterranean intellectual life from about the second century B. C. Judaism as we now know it, Christianity, and Islam all developed in this context and all absorbed Socratic ideas to some extent. In Christianity and Judaism, the main initial leanings were toward Plato. In Islam, which preserved and built upon far more of Greek and Hellenistic science, they were toward Aristotle. The Emperor Justinian declared himself a protector of Christianity and closed down Plato's Academy in 385 AD -- the last pagan university in Europe.

By the time of Aquinas, the major centers of learning were in the Islamic areas of southern Europe, north Africa, and the middle east. The European (Catholic) church was in conflict with the rising European cities. The cities were increasingly interested in science and promoting trade, and the obvious people to trade with and to learn the latest science from were in the Islamic areas. Aquinas represents the opening to this attitude within the Catholic Church. In philosophical terms, it was phrased as dispute between Platonism and Aristotelianism. Aquinas' great work, the *Summa Theologica*, attempts in an Aristotelian manner to establish a single, complete, and monolithic philosophy that includes both all knowledge and all law. It defines, literally, a place for everybody and everybody in their place. There has never been a more consistent application of the basic Platonic/Socratic vision of a universe obeying just one absolutely clear ethical system before or since. It continues to be influential in two main areas. It is still viable theology in the Catholic tradition, and it continues to serve as an exposition of one of the important versions of the idea of "natural law."

5. Thomas Aquinas: *Summa Theologica*. Natural law and the hierarchy of authority. This is a beautiful website that lets you expand and contract the work according to its logical construction. The full *Summa* is far too large to read. The important thing is not really to read the whole thing, however, but to see how it is organized and how this applies to our concerns. The website does an excellent job of bringing this out on the screen, showing the kind of thinking that Aquinas must have been doing when he composed it. This is the ultimate attempt to

make all law and all ethics seem to follow as one single system from one set of premises. Understand the hierarchy of principles Aquinas is arguing for and click back and forth between the levels to see how this works in the argument. For class, print out the list of all four parts (that is, just the page and a half summary), then in the Second Second Part go to justice and then to question 57 Articles 1 to 4, Question 58 article 1-12, Question 59 articles 1 to 4, question 60 articles 1-4, and Question 61, article 1 and print them out. Go up and down the chain a few times; the point is to see how completely hierarchical the argument is. In class we will mainly concentrate on his idea of law: where it comes from and what it consists in. <http://www.newadvent.org/summa/>

Sep 20, The Foundation of Modern Skepticism and Situational Ethics: Adam Smith

Skepticism arose in part when the scholars of Plato's academy, around the first century, retained the Socratic rejection of knowledge based on experience but also recognized there was no way to defend his claims of truths beyond experience. This led Arcesilaus, the founder of Academic skepticism, to declare that he knew nothing—not even that he knew nothing. A more constructive line of skepticism began a little earlier with Pyrrho of Elis. He is said to have gone to India and studied with “gymnosophists,” which is obviously a Greek description of a yogi. As a result, he, too, rejected the idea that experience could yield “truth” in a Socratic sense of certain and unchanging knowledge, but he recognized as an alternative that it would yield truth that was good on the evidence until we do better. In the second century AD, Skepticism received a comprehensive formulation in the work of Sextus Empiricus, from which we get the term “empiricism,” the method of experience. Empiricism in turn was reframed by Galileo as the method of experiment, and this continues to be the foundation of the modern physical sciences. Matters of law, thought, and mind, however, remained without a really foundational skeptical analysis until Emanuel Kant. Kant is often treated in the philosophical literature as an idealist, although a particularly difficult one. Kant's own statements, however, make it absolutely clear that he saw himself in the Skeptical tradition, building on David Hume. As Aquinas' work is the foundation of modern absolutist ethics, Kant's is the definitive foundation of modern situational ethics. The two most important groups in modern skeptical thinking are the Scottish Moralists, including mainly Adam Smith, David Hume, and Adam Ferguson. The other group is Emanuel Kant and those who came after him, including very important J. W. Goethe, Wilhelm von Humboldt, and Carl von Savigny.

6. Adam Smith. Theory of Moral Sentiments, Part I. I suppose you are familiar with Smith's *Wealth of Nations*, one of the foundations of modern economic theory. This originated as part of an earlier work of larger scope, his *Theory of Moral Sentiments*. The PDF is on the web. [Click here](#). This is just the first part, the first three sections. It is not hard going, but it is carefully written. Think about his assumptions. Note the importance of the idea of reciprocity.

Sep 27. The Foundation of Modern Skepticism and Situational Ethics: Kant. (This might take more than one session.)

Kant's starting point is the observation that in general acceptance the only thing that is good in itself is a good will. Everything else is good contingently. The *next* question is what makes a good will, and the answer to this is that it is one acting out of reverence for the law, or duty. The next question how do we know what this is, and the answer is based on his view of reason--which is exactly what makes this a metaphysics of morals rather than, in his terms, an anthropology of morals. Trace out the pieces of the argument and see how they relate to one another.

The key ideas to dig out of Kant's argument are how he distinguishes between something good in itself and something good for what it leads to, what he means by a good will, "judgment," duty, universal law and the role of reason in moral judgment. The other main point to note is that it is an empirical argument. He is not talking about morality "out there" somewhere but rather analyzing our own basic assumptions. So you should ask yourself if he describes how you actually think. Does what he says get at what you, most fundamentally, already recognize? As a guide to following Kant's argument, look at the midterm and final questions for the previous semester, posted below. This discussion may carry over to next week, but read the entire book this week; you should see the need to go over parts of it more than once.

7. Kant, E. 1964. *Groundwork of the Metaphysics of Morals*. Harper Collins (Used) This may carry over to next week.

Oct 4. Modern Absolutism: Utilitarianism and Positivism.

While John Stuart Mill is sometimes identified with modern liberalism, in fact he is much closer to modern libertarians. He is not arguing for a situational ethic. It is, rather, a new although very odd version of the absolutist approach. The widely cited essay "Utilitarianism" makes this clear. Can you see it? (Is the key question for ethics what is right, or is it who decides what is right?)

8. John Stewart Mill, *Utilitarianism*.

Oct 11. Pragmatism.

In the early part of the 19th century there were enormous advances in what was becoming the social and behavioral sciences and law, stimulated mainly by Kant and Adam Smith. By the middle of the century, however, especially after the often abortive liberal revolutions of 1848, there was an anti-democratic and anti-scientific reaction, revolving mainly around the alternatives presented by Marxism and positivism. The positivist side the leaders were Auguste Comte (who invented the term), Mill, and Herbert Spencer. In its European version (starting with Comte), positivism was openly authoritarian and anti-democratic. In its British version, it was quieter about its anti-democratic aspects and focused on being pro-capitalist or pro-powerful. Either way, it was the opposite of what Kant and the Skeptics had argued for and for while succeeded in obscuring their views. A major reaction to positivism in turn was American pragmatism, begun initially by O W Holmes, William James, C. S. Peirce, and others in Cambridge, Massachusetts. Later, John Dewey and George Herbert Mead became major spokesmen. You should be able to see in your readings that Dewey and Mead reject the assumptions and imagery of Mill (and Aquinas, of course) and return to Kant.

9. John Dewey "The Evolutionary Method as Applied to Morality ". 1902. JSTOR

10. [George Herbert Mead. "Social Consciousness and the Consciousness of Meaning", *Psychological Bulletin* 7 \(1910\): 397-405.](#)

Midterm take-home will be on work up to here. [Click here for Fall 2015 Midterm.](#) If it does not appear, email me.

Oct 18 . BEGIN LAW AND ETHICS

11. Make up Midterm Exam Questions--we will do this together in class. The midterm will be take-home. Each person should submit possible questions to me by email before class. We will discuss the submissions together in class and decide what to put in the exam. This will also serve as a review.

This section introduces the last component of the course: the relationship between ethics and law. For modern administrators, especially in the West, most of the important and difficult ethical issues you face will be closely involved with questions of law: when to comply, whether to comply and how to comply. We do more and more with law, and law is moving into newer and newer areas. Because of this administrators are almost always faced with having to adjust to,

apply new legal requirements that involve the threat of facing legal action. When their efforts are not readily accepted they commonly lead to lawsuits or even criminal charges, that in turn reflect back upon the law itself. If you want to handle this situation constructively, or perhaps even to survive it, you had better understand how it works from a legal perspective. The modern position begins with Holmes. Pound continues the same development. As you should be able to see, they speak for the Skeptical, not the absolutist, perspective.

12. Law—Holmes, O W. 1887. The Path of the Law. 10 Harvard Law Review 457.

Also at: http://www.constitution.org/lrev/owh/path_law.htm

Oct 25. Pound and the New Deal

You can get a good background article on Pound in the Wikipedia. He was Dean of the Harvard Law school for a long time at the beginning of the 20th century, when Harvard Law was producing most of the judges and lawyers who implemented the New Deal, for the most part on the basis of assumptions drawn from, and feeding back into, Pragmatic philosophy.

13. Roscoe Pound. Law and Morals. *Social Forces*. 1923. JSTOR.

Sociology of Law and Sociological Jurisprudence. *University of Toronto Law Journal*. 1943 JSTOR.

Juristic Problems of National Progress. *American Journal of Sociology*. 1917. JSTOR

14. The New Deal and labor law, changing views of right to contract and to organize.

National Labor Relations Act and National Labor Relations Board (right to organize and bargain collectively). This is an example of a single piece of national legislation establishing a whole branch of law and an administrative apparatus to implement it. The act can be read and downloaded from the National Labor Relations Board site at <http://www.nlr.gov/national-labor-relations-act> . Read carefully at least the Introduction and look over the rest, noting what the sections pertain to. Then, to see how it is implemented, look at the front page of the same NLRB US Govt. site: <http://www.nlr.gov/> This has been reconfigured since last term. Explore the website to get a sense of the organization. Go to "About Us" and then click on the subsections for "Board" and "General Council." Understand how it implements the Act. Also in the NLRB site, you can go to "Cases" and

look them over. For class we will discuss A case involving a cousin of mine, Selma Rattner. She inherited Paragon Paint from her father. Evidently she was unable to deal with it and hated it. The workers were stuck. [Click here](#). To find this on the NLRB website, go to "bound volumes," then to volume 317 in the pull down menu, and then you should find it listed alphabetically.

See also the NLRB page at [lawmemo.com](http://www.lawmemo.com), an employment law firm, at:

<http://www.lawmemo.com/emp/nlr/default.htm>

Here is a general background on the New Deal and labor conditions from [the Bureau of Labor Statistics](#). Look over the article to help yourself imagine the conditions the NLRA was aimed at changing. Also, for fun, google and read the article titled The Fast Track to a Great Social Security System.

Nov 1. Midterm exams due at class time. Submit them both in hard copy and electronic form. Electronic form may be on disk, cd, or email. Email is best, as an attachment. Send the files either as .docx, doc, pdf, txt, rtf, or wpd.

Paper proposals. A proposal is simply a short statement of what you propose to write on, why it is important, how you will analyze it, and what you expect to find. Not more than two pages. The purpose is to let me provide you with some advance feedback. It should normally not be more than one page. Submit them to me by email any time before Sunday, Nov 3. I will respond individually, and then discuss in class a few of the proposals that I think will be of the most general interest. This will take about 30 minutes at the end of the class. The beginning of the class will focus on Garfinkel.

15. Harold Garfinkel, "Studies of the Routine Grounds of Everyday Activities." *Social Problems* 11. pp. 225-250. Winter 1964. JSTOR

From about 1880 to 1935, the ever-moving light of scholarly attention swung back to the skeptical tradition, led by pragmatism in the United States and closely allied traditions descending mainly from Wilhelm Wundt, Gestalt psychology, and sociological jurisprudence in Europe. After then, however, and over the period of World War II, positivism was again resurgent, mainly in the form of what was called Logical Positivism and the German positivist sociology of Max Weber. In the United States, a major center of this new positivism was the Harvard Department of Social Relations, which many regarded as the leading

program in the country until it dissolved in 1972. Harold Garfinkel was a student in the the department, but also subsequently became one of its most important critiques. This article lays out his program, and returns (in an unfortunately obscure way) the pragmatic social interactionism. The relevance for the course is that if we are going to talk about a situational ethic, we also have to consider what we mean by a situation. This is Garfinkel's focus.]

Nov 8. Civil and Human Rights.

15. Human Rights. Universal Declaration of Human Rights

<http://www.un.org/Overview/rights.html>

The full interactive Helsinki Accords Final Act

<http://www.hri.org/docs/Helsinki75.html>

If the hri link does not work try this: <http://www1.umn.edu/humanrts/osce/basics/finact75.htm>

16. Persecution and the right to escape it--Asylum and immigration.

The Matter of T. (Sri Lanka.) [M Leaf Paper on Asylum Injustice](#)

Nov 15. Civil Rights and Rule of Law

What is the connection between civil rights and the rule of law?

Why do we care in a course on ethics?

16. Martin Luther King: [Letter from Birmingham Jail, 1963.](#)

17. The Civil Rights Act of 1964, Title VI. Reading is: Equal Employment Opportunity Commission—law and cases.

<http://www.eeoc.gov/policy/vii.html> Remember that this is only one section of the Act. If you can, read the rest.

18. Discrimination attorney site:

<http://www.discriminationattorney.com/>

Look over the topics and read the article on winning a 1.35 million dollar claim. See it as an illustration of the way legislation has created incentives to use courts to develop law.

Here is a link to a history of civil and labor rights in Seattle, Washington describing the racial restrictions on housing that were enforced through restrictive covenants: <http://depts.washington.edu/civilr/covenants.htm>

Decide on Final Examination Questions and Discuss Law of War-
-what wars and behavior in war is ethical, moral, and lawful?
What are crimes against humanity?

18. For the final Exam questions the topic will be the relation between law and ethics.

Nov 22. Thanksgiving week break.

Nov 29. Law of War.

19. The idea of the law of war is ancient and is the most basic topic in the idea of international law in general. The modern literature is generally recognized as beginning with Hugo Grotius, and Grotius's first books explain the connection. [THIS is a link to a translation of Grotius On the Laws of War and Peace.](#)
[Here are the first three chapters reformatted by me to make them more readable.](#)

Look over the whole table of contents, and read at least book I and II carefully. Notice that the language is much like Aquinas, but you should see that the underlying imagery and assumptions are much more similar to what we see in Kant.

[**Geneva Convention Relative to the Treatment of Prisoners of War.**](#)

[**Geneva Convention Relative to the Protection of Civilian Persons in Time of War.**](#)

<http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/6756482d86146898c125641e004aa3c5>

The allied occupation of Germany, Italy, and Japan was a turning point in the legal and political history. The occupation policies and their results were detailed carefully by U S and British military historians as they developed. [This is an account of the arrangements for German demobilization.](#) [The U S historical document that it is taken from is here.](#)

Note the differences between what was done then and what the US has done in Iraq.

Look at how many treaties now exist in the area of human rights, and what they cover:

[**Web page of the Office of the High Commissioner for Human Rights**](#)

Convention on the Prevention and Punishment of the Crime of Genocide

Statute of Rome-which establishes the international court of Justice.

Bush Administration argues against access to civilian attorney for person held in secret prison.

Report of Supreme Court Rejection of Bush administration claims of right to try detainees at Guantanamo.

This is an article with background to a book on the search for a legal justification for the Bush administration's policies.

DEC 6. Law and Ethics of Torture.

President Bush, Vice-President Cheney, and their present and recent legal advisors continue to defend the use of torture by American interrogators even though the U S Congress, the military, and apparently also the CIA have reaffirmed their repudiation of it and their adherence to international law. As the readings below make clear, the law can be argued to be on both sides—although I think it is clear that the predominant legal view is that torture is, per se, unlawful. But the most important point, for purposes of the course, is the not the right and wrong of it as such but rather the way the topic, once again, illustrates what Holmes is pointing to when he says that the law represents “the moral development of the race.” The question we will most try to focus on is the logic of the process by which this development comes about. What view seems to prevail and why? (Do not answer “because it is right”; the question is what makes it so.)

Torture has been used, legally, in two ways: for obtaining information or confessions and for punishment. While these may be distinguished in the abstract, such a distinction makes little difference to the victim. In large part for this reason, the growing public rejection of one has generally not been separated from rejection of the other. Through this association, legal conceptions of torture are closely tied to notions of “cruel and unusual” punishments.

Cheney, Rice, and others approved torture in meetings held in the White House:

<http://abcnews.go.com/TheLaw/LawPolitics/story?id=4583256&page=1>

This is a BBC three-part video called *The Power of Nightmares*. It oversimplifies American political processes, but presents a largely reasonable view of the way the Islamic extremists ideology and American neo-conservative ideology mirror each other and have fed off each other. There is also a lot of good detail on who is who in the Bush administration that led to the policies that included establishing the prison at Guantanamo Bay and the Bush administration view of torture and rule of law.

<http://topdocumentaryfilms.com/the-power-of-nightmares/>

English Bill of Rights, 1689

<http://www.yale.edu/lawweb/avalon/england.htm>

UN Convention Against Torture <http://www.un.org/documents/ga/res/39/a39r046.htm>

A summary and the US position on it is at <http://trac.syr.edu/immigration/library/P47.pdf>

Interview of General Hayden, director of CIA, on CIA use of torture.

<http://www.msnbc.msn.com/id/21134540/vp/23867638#23867638>

Summary of US and International law on Torture by Human Rights Watch, 2004.

<http://www.hrw.org/english/docs/2004/05/24/usint8614.htm>

John C. Yoo's previously secret memo on interrogation.

http://www.aclu.org/pdfs/safefree/yoo_army_torture_memo.pdf

Frontline Interview of John C. Yoo

<http://www.pbs.org/wgbh/pages/frontline/torture/interviews/yoo.html>

US Army Field Manual 2-22.3 (FM 32-52) September 2006.

Read especially sections 8 and 9, and notice the Geneva convention reproduced as an appendix.

<http://www.fas.org/irp/doddir/army/fm2-22-3.pdf>

[FALL 2015 FINAL IS HERE.](#)

Dec 9. DATE FOR FINAL EXAMS DUE IN MY OFFICE, GR 3.128, AT 7 PM. DO NOT BE LATE WITHOUT NOTIFYING ME. We will use the official exam day as the due day once the schedule is

published. Also give me a digital copy, either on CD or disk, or as an email attachment. Email is preferred. Send the files either as .doc (older Microsoft Word format), docx, pdf, txt, rtf, or .wpd. If you cannot get to campus with the hard copy and want me to print out the digital file, say so in the email. Label the file with something including your name, like SamStudentFinal

Dec 14 7 PM, DATE AND TIME FOR COURSE PAPERS DUE IN MY OFFICE, GR 3.128. DO NOT BE LATE WITHOUT NOTIFYING ME. Also give me a digital copy, either on CD or disk, or as an email attachment. Email is best. SEND IT RETURN RECEIPT (IF POSSIBLE) SO YOU WILL KNOW I GOT IT WITHOUT HAVING TO ASK ME IN A SEPARATE EMAIL. LABEL IT WITH YOUR NAME, SUCH AS SAMSTUDENTPAPER.DOC. AS WITH THE FINAL, IF YOU CANNOT GET TO CAMPUS TO TURN IN THE HARD COPY AND WANT ME TO PRINT THE PAPER FROM YOUR DIGITAL FILE, SAY SO IN THE EMAIL. IF I AM NOT IN THE OFFICE, SLIDE THE PAPER UNDER MY DOOR. IF YOU CAN TURN YOUR PAPER IN EARLY, PLEASE DO SO. WE WILL DISCUSS THESE DATES IN CLASS BEFORE THE END OF THE TERM. I MUST POST GRADES BY DEC 21.

Grading Policy and Detailed Paper Assignment

The weighting of the assignments in the final grade is 30% for the midterm, 30% for the final, and 40% for the paper.

For details of the paper assignment, including guidelines for avoiding plagiarism, [click here](#). (This is the same link as in the introductory description.)

Course & Instructor Policies

Since the exams will be take-home, I cannot think of any possible reason to fail to hand them in on time. There are no “extra credit” or make-ups.

Attendance is important. Since each class is a whole week's worth of discussion, it is better to come late or leave early than to miss it entirely. A student with more than three unexcused absences will be

subject to administrative removal from the course. Participation in discussion is also important. Many of the ideas we will work with will seem very familiar. If you don't try to use them and examine them, it is very easy is to miss the differences between one and another. Students being disruptive or distracting will also be subject to removal. Playing computer games or doing email and the like is being disruptive and distracting. Use computers in class to follow the discussion, nothing else.

No Field Trips

Standard UTD policies are procedures for all classes are on the U T Dallas website at: <http://coursebook.utdallas.edu/syllabus-policies/>.
