

Legal Studies 491 C  
Law and Conscience  
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120 Gordon Hall

Books: Bolt, A Man for All Seasons;  
Camus, The Stranger; Zinn, Emma;  
Ibsen/Miller, An Enemy of the People;  
Brecht, Galileo; Colby, Long Goodbye;  
Dean, Blind Ambition; Kinoy, Rights on  
Trial.  
Films: The Front; King: Montgomery to  
Memphis; Constitution in Crisis

### Syllabus for Fall 2008

The OBJECTIVE OF THE COURSE is to explore, together, the nature of conscience and its interaction with law—to grapple with fundamental issues of the human condition that are as old as Socrates' trial and as modern as war crimes in The Sudan or the American use of torture as a tool of war. This is an advanced course; and in addition to requiring that you be a senior or junior Legal Studies major, it assumes that each of you has had a reasonable amount of experience in thinking about the nature of law and about fundamental issues of ethics, conflict, and order in modern society. It is also a course that makes extensive use of literature as a framework for discussion, and that requires active participation in discussion of each work. There is a good deal of reading in the course; and I expect that you will devote considerable energy to the quality of your required writing assignments, whether short or long.

The course number and content—and the fact that this is a seminar—should make it clear that you should not be enrolled until you feel prepared to benefit from what is usually an intense, cooperative, and intellectually demanding experience. I urge you to think carefully about what is expected and what you are prepared to put into the course before deciding to take it. Please read the entire syllabus before making that decision. The course will be offered again in the spring. You may take it when you feel that you are prepared to benefit from it.

Because conscience is so often at odds with power, and because we expect that both will be part of the law, the issues raised in this course present a complex mix of rational analysis and personal reflection. To try to do justice to this complexity we will use literature and film to help us focus on dilemmas in which there is a tension between law and conscience, or in which the use of power is at odds with either. This is only one of many ways to explore enduring questions about the nature of law. But it has the virtue of giving us a common starting point in the richness of literature and film. In conducting our exploration we shall be equally concerned with the individual struggle, the history, contemporaneous culture and politics that form the context of any struggle, and the nature of law. Issues of how group values (derived from subculture and heritage) affect law and conscience will arise in connection with a number of the works.

There may be themes common to many of our discussions. These themes might be described as jurisprudential, i.e. involving competing conceptions of the realities and philosophy of law; and there may be common sub-themes about the role of conscience in private and public life that may emerge. But our attention in each discussion will be directed primarily at the work that we are studying, not toward fitting that work within a pre-arranged outline of "important issues." In fact, there is no such pre-arranged outline. **The most important work you will do in this course, therefore, is to think deeply enough about each play, novel, memoir, history, or film to formulate an understanding of each work and to arrive at your own judgments about the common themes that emerge as discussion proceeds.** You will be asked to make your thinking about these themes a part of your writing in the course in two essays written during the semester and in one at the end of the course. Attendance, participation, timely completion of assignments, and active learning will count heavily toward your grade. There will be no exams, no lectures, and absolutely no tolerance for academic dishonesty.

## YOUR TIME-COMMITMENT

The class session of October 24, during which we see a film about Dr. King, runs to 6:35. If your schedule prevents you from staying late on this date, you must notify me immediately, since this may make it impossible for you to complete the course requirements.

Please note also that there are three very long books to read, Long Goodbye, Blind Ambition, and Rights on Trial. I have given extra time for these assignments by the scheduling of movies for which there is minimal preparation required and by taking advantage of Thanksgiving break as reading time for one work. This can work well if you follow my suggestions in the syllabus and if you plan and manage your time effectively. Still, there is a good deal of reading; and you should consider carefully whether you are prepared to make the commitment to doing it completely and carefully.

This course is based *entirely* on discussion. That means not only that your careful preparation *before* class and your thoughtful participation *in* class are essential, but that both preparation and participation should be based on the assumption that each person in the class has an equal responsibility with me to keep the discussion active, interesting, focused, and thoughtful. The reflection essay assignments (see below) should help you with this by encouraging you to come to class with comments, questions, and ideas already formed. It may seem a little primitive for an advanced class, but attendance will be required; and un-excused absences will lower your course grade.

We meet only once each week, for 2 ½ hours; and almost every week requires the reading and preparation of a book and the writing of a reflection essay. This is probably a new experience for many of you. Because of its unfamiliarity and the fact that it is a different format than that of most of your other courses, you may find that it takes some getting used to. In deciding whether to remain in the course, reflect about the focus and time-management required to prepare adequately for a course that meets less frequently and for a longer time.

## REFLECTION ESSAYS

A reflection essay is required virtually every week. It must be handed in the day before class for written works on the syllabus, and two days after class for films shown in class. A reflection essay requires you to write 2 typed pages reflecting on some aspect or all of the reading or film for the class. No research is needed. **It is your reflective personal, intellectual, and emotional reactions to the reading or viewing that interest me.** These essays will not be graded; however, you must hand them in on time or you lose substantial credit from your final grade. There are ten reflection essays assigned, and you will be permitted to miss two of these (excluding the last one, Rights on Trial, which you may not miss) without penalty. Reflection essays are due electronically or in the designated box in the main Legal Studies office (102 Gordon Hall) no later than 4 p.m. on the Tuesday before the Wednesday in which the reading will be discussed (the film reflection essays are due no later than 2 p.m. on the Friday *following* the film.). I will accept reflection essays submitted by email attachment if you use a format that is easy for me to get access to (I prefer MS Word)

## GRADING AND WRITING

This is a seminar-style course with high expectations for reading, writing, and discussion. If you are not a good reader and do not enjoy reading, you should reconsider taking this course. If you are unwilling to participate in discussion and only want to listen, or if you are unwilling to listen but only want to talk, you should also reconsider taking this course. Part of the purpose of this seminar is to learn how to take responsibility for contributing to a discussion, keeping it focused, and shaping its direction jointly with others. Good discussion also requires the development of the skill of careful listening. You should proceed on the assumption that the instructor is not the only person who has something to say that is worth thinking about or taking notes on. Grading will be based on 1) thoughtful class participation; 2) three essays, two of five pages and a final paper of 8-10 pages; and 3) attendance and the *timely* completion of at least eight of the ten reflection essays.

Writing is also an important part of my expectations for your participation in the seminar—because writing is an important part of clear and creative thinking as well as of careful analysis. Although you will get written or verbal reactions from me to virtually all your written work, writing instruction is not a part of this course. As with the amount of required reading, you should reconsider your enrollment in the course if you dislike writing or do not feel comfortable with the amount of writing required. Ten 2-page reflection essays, two 5-page essays and one 8-10-page essay constitute a great deal of writing. Note that the reflection essays are un-graded, and may therefore provide an opportunity to relax and experiment with your writing. The two five-page essays and the final paper of 8-10 pages are more formal and will be graded. The final essay will provide you an opportunity to think about some of the broad themes of the course as you understand them and to show how they are reflected in a number of the readings and films that we have discussed.

### **BOOKS**

All the books are at the Jeffrey-Amherst Bookshop textbook annex behind the store in the center of Amherst. There may not be any copies of Blind Ambition (out of print) at the bookstore. Those who are not able to buy Blind Ambition there should order it soon through an online seller of used books such as Alibris or Amazon. Be sure to purchase all the books at the Jeffrey Amherst Bookstore annex before “extras” are sent back to the publishers. Access to Rights on Trial (which is also out of print) will be arranged through the University library and inter-library loan, and you will be informed in November about how this loan program will work. We will determine on September 10<sup>th</sup> whether you should buy “An Enemy of the People” or “Galileo.”

### **REFLECTION ON THE TIMES**

This is an election year, and that, if nothing else, is likely to have us thinking about issues of law and conscience that concern the wars in Iraq and Afghanistan, the conflict over the rule of law arising from detentions at Guantanamo, and what some people see as a significant erosion of individual rights at the hands of national governments at home and abroad. The class has no political or ideological agenda, but we cannot ignore the fact that we are all faced with some of the most important and difficult issues of law, conscience and constitutional democracy in a very long time. These issues will not be resolved by a presidential and congressional election, and are likely to be with us for a very long time, perhaps as a defining dilemma for your generation. Although I am confident that the historical materials that we study this fall will affect and be affected by your views on current dilemmas of law and conscience, we will not study any of these current issues in the seminar. But it may be possible for some of you to incorporate study and thinking about current issues in the final essay for the seminar or in an individual honors or independent study. If you are interested in this possibility, see me before the end of the drop and add period.

## SCHEDULE OF CLASSES

The works that we study will be discussed on their own merits. But each also contributes to our thinking about the relationship of law, power, individual and collective conscience, and the political life of the nation. We start with a masterful 16<sup>th</sup> century lawyer (Thomas More) who could only preserve his conscience at the cost of his career, his family, and ultimately his life. Whether More succeeded in his struggle is a judgment each of us and history may make. We end with another masterful lawyer, Arthur Kinoy, who tried to find an effective way to make law an instrument of conscience in the late 20<sup>th</sup> Century.

\* indicates a reflection essay on a reading is due electronically by Tuesday, 4 p. m. before the class in which the work will be discussed.

\*\* indicates a reflection essay on a film due within 48 hours of the class in which film was shown (by Friday 2 p m).

9/3 Introduction: The many individual and collective understandings of “conscience”—in morality, religion, science, law, psychology and philosophy. We will engage in some preliminary reflections on the relationship between law and conscience.

9/10 "A Man for All Seasons"\*

9/17 The Stranger\*

9/24 Half class read “Galileo\*\*” (Brecht); other half read “An Enemy of the People\*\*” (Ibsen/Miller)—reading selections/assignments given during class of 9/10.

10/1 “The Front”\*\*\* *Optional* excerpts from Navasky’s Naming Names, about McCarthyism in Hollywood, will be distributed 9/24. Please note that we may not meet in our regular classroom to see and discuss this film, but in an auditorium, if I can find one available.

10/8 **We will not hold a full class.** Religious holiday begins at sunset. There may be a brief, optional film about Emma Goldman (relevant to next week’s reading) shown 3:35-4:30; or class may be canceled.

### 1<sup>ST</sup> 5-PAGE ESSAY DUE in Class or Electronically on 10/08

10/15 “Emma”\*

10/22 “Montgomery to Memphis”\*\*\* [3-hr film: in class--be prepared to stay until 6:35]. Be sure that your reflection essay is handed in by Friday, 2 p.m. You may use email attachment to submit your essay, but I must receive the essay by Friday at 2 pm. Film will probably be in an auditorium. [Begin reading Colby’s Long Goodbye after you have written your reflection essay on “Montgomery to Memphis” so that you will have time to finish it by the class of 11/5.

10/29 See the film "Amistad"\*\*\* on your own before the 10/29 class. Bring your essay to class today. How is the relationship between law and conscience in "Amistad" different, and how similar, to the relationship between law and conscience during the time depicted in Montgomery to Memphis?" In class on 10/29, we will discuss both "Amistad" and "Montgomery to Memphis." Your Montgomery to Memphis reflection essay and that of another student will be returned to you with my comments to help start the discussion.

11/5 Long Goodbye: the Deaths of Nancy Cruzan\* (Colby).

**2<sup>ND</sup> 5-PAGE ESSAY DUE MONDAY, November 10<sup>th</sup>**  
**in Legal Studies Office or Electronically by 5pm**

**IMPORTANT NOTE:** On 11/10 begin reading Blind Ambition. \* Also see "All the President's Men" on your own before class of 11/19.

11/12 **No class** ...Tuesday schedule.

11/19 Blind Ambition\*

11/26 **No class**....Thanksgiving holiday. Begin reading Kinoy's, Rights on Trial for 12/10.

12/3 View and discuss Bill Moyers' tape on the Iran/Contra scandal, "The Constitution in Crisis."

12/10 Rights On Trial\* Note that we have made special arrangements for you to get the book from the library, and that it is important to follow the instructions for library loans in mid-November.

**FINAL ESSAY OF 8-10 PAGES DUE DURING EXAM WEEK**

**PLEASE NOTE**-- Blind Ambition is out of print. You will therefore have to get it from a library, by ordering a used copy online from a bookseller that deals with used books, or you may find that the Jeffrey Amherst has secured a few copies. The cost should be very low. **ALSO NOTE**—Rights on Trial is also out of print. I have arranged a way for you to get it through interlibrary loan.