Moral Limits of the Criminal Law  
LDST 371, Section 1  

Fall 2010  

Course Syllabus

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Office Hours: Open door and by appointment

COURSE DESCRIPTION

All leadership occurs in a social and legal context. This context sets the parameters for permissible thought, speech, discussion, association, and action. As a result, what leaders can do—indeed, who gets to lead or whether people can be leaders at all—partly depends on the ways in which we understand our the nature of public and private life and, especially, on the constraints we put on ourselves or have put upon us. First, leadership often involves change or innovation. As such, leadership assumes that people are well positioned to think new thoughts and to practice novel behaviors. Secondly, leadership is an inherently collective activity. It involves getting other people to consider new ideas and, in some cases, to adopt these beliefs as their own and to organize their lives around them. So when there are significant limits on freedom to deviate from a religious doctrine, the political orthodoxy, sexual customs, and so on, we are more likely to be followers than leaders.

The purpose of this course is to get us to think deeply and precisely about the moral justifications for any social or legal impediments to liberty and to come to some considered conclusions about whether these justifications work generally and, in particular, in contemporary debates about freedom. We will approach the justifications for restricting liberty from the perspective of philosophy of law in the Anglo-American tradition. We will begin with English philosopher John Stuart Mill’s answer in On Liberty to questions about “the nature and limits of the power which can be legitimately exercised by society over the individual.”
Mill’s response to this question was to “assert one very simple principle...that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection.” To determine whether there might be other “liberty-limiting principles” in addition to Mill's “harm principle,” a core tenet of liberalism, we will turn to Mill nineteenth-century critic James Fitzjames Stephen and the work of twentieth-century thinkers such as Patrick Devlin and H.L.A. Hart. A volume from Joel Feinberg's four-volume series *The Moral Limits of the Criminal Law* will also allow us to give serious consideration to whether we would be justified in using the criminal law to limit the liberty of individuals who engage in offensive behavior, behavior that is harmful only to the actors themselves, or behavior that is simply immoral.

This course is designed for rigorous discussion of the issues, which means that all participants bear an equal burden in explaining, critiquing, and developing the ideas conveyed in the readings. To facilitate this process, each student will be asked to prepare weekly papers on the readings and on the implications that these readings have for our understanding of leadership. I will regularly ask students to speak from their papers as an impetus to our discussions. Please also note that we begin and end on time, and that students are expected to be in class for the entire class period. You may use computers in class, but you must first send me an email pledging that you will restrict your usage to the course-related activities such as note-taking.

**REQUIRED TEXTS**


REQUIREMENTS AND GRADING

Your final grade will be determined as follows:

1. Class Contribution 10%
2. Weekly Essays 20%
3. Quiz 5%
4. Midterm Examination 15%
5. Term Paper 20%
6. Final Examination 30%

Attendance affects your class contribution grade. If you are absent, you will not be able to contribute to the class. Punctual and full class attendance is also required for essay credit. Weekly essays critique, analyze, and develop the arguments in the readings for the assigned day. They should take the following form: 1 single-spaced, typed page, consisting of at least 600 words, per week for 10 weeks. Failure to conform to these requirements will result in a loss of credit for your work. Essays must be posted directly to blackboard by 7:00 p.m. on Monday and 7:00 p.m. on Wednesday, each week. Please do not post your essay as an attachment. In some cases, the assignment days for the weekly essays will change. When this happens, you will be responsible for writing for the new assignment day and attending class on this day.

The instructor takes deadlines and scheduled exams very seriously. In fairness to your classmates, any difficulties that arise should be brought to my attention as soon as possible before the deadline or scheduled exam. No late work will be accepted, unless accompanied by a completed and approved request form.

1 The Jepson School supports the provisions of the Honor System as sanctioned by the School of Arts and Sciences. Every piece of written work must have the honor pledge and the student’s signature on it. The pledge is: “I pledge that I have neither given nor received unauthorized assistance during the completion of this work.” I reserve the right to refuse to accept any work submitted without the honor pledge.
form can be found attached to this syllabus. It cannot be used for weekly essays. Please note that computer problems never constitute an acceptable excuse.

Grading legend:

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If you need accommodations for any of the assessments, please contact the instructor during the first week of classes.

**SCHEDULE (subject to change as the course progresses)**

**I. The Liberal Harm Principle**

**Tuesday, August 24**  
Introduction

**Thursday, August 26**  
Mill, Chapter 1

**Monday, August 30**  
WEEKLY ESSAY 1 (Group A)

**Tuesday, August 31**  
Mill, Chapter 2
Wednesday, September 1  
WEEKLY ESSAY 1 (Group B)

Thursday, September 2  
Mill, Chapter 2

Monday, September 6  
WEEKLY ESSAY 2 (Group A)

Tuesday, September 7  
Mill, Chapter 3

Wednesday, September 8  
WEEKLY ESSAY 2 (Group B)

Thursday, September 9  
Mill, Chapter 4

Monday, September 13  
WEEKLY ESSAY 3 (Group A)

Tuesday, September 14:  
Mill, Chapter 5

Thursday, September 16  
QUIZ

II. Legal Moralism

Monday, September 20  
Donchian Ethics Conference  
WEEKLY ESSAY 3 (Group B)

Tuesday, September 21  
Stephen, Chapter 1

Wednesday, September 22  
WEEKLY ESSAY 4 (Group A)
Thursday, September 23  
Stephen, Chapter 2

Monday, September 27  
WEEKLY ESSAY 4 (Group B)

Tuesday, September 28  
Stephen, Chapter 2

Wednesday, September 29  
WEEKLY ESSAY 5 (Group A)

Thursday, September 30  
Stephen, Chapter 4

Monday, October 4  
WEEKLY ESSAY 5 (Group B)

Tuesday, October 5  
Stephen, Chapter 4

Wednesday, October 6  
WEEKLY ESSAY 6 (Group A)

Thursday, October 7  
Devlin, Chapter 1

Friday, October 8 through Tuesday, October 12: Fall Break

Wednesday, October 13  
WEEKLY ESSAY 6 (Group B)

Thursday, October 14  
Devlin, Chapter 4

Monday, October 18  
WEEKLY ESSAY 7 (Group A)

Tuesday, October 19  
Devlin, Chapter 6
III. Legal Paternalism

Wednesday, October 20  
WEEKLY ESSAY 7 (Group B)

Thursday, October 21  
Hart, Chapter 1

Tuesday, October 26  
MIDTERM EXAM

Thursday, October 28  
2009 Meeting of the International Leadership Association (TBA)

Monday, November 1  
WEEKLY ESSAY 8 (Group A)

Tuesday, November 2  
Hart, Chapter 2

Wednesday, November 3  
WEEKLY ESSAY 8 (Group B)

Thursday, November 4  
Hart, Chapter 3

Monday, November 8  
WEEKLY ESSAY 9 (Group A)

Tuesday, November 9  
Devlin, Chapter 7

IV. The Offense Principle

Wednesday, November 10  
WEEKLY ESSAY 9 (Group B)

Thursday, November 11  
Feinberg, Chapter 7
Monday, November 15
   WEEKLY ESSAY 10 (Group A)

Tuesday, November 16
   Feinberg, Chapter 8

Wednesday, November 17
   WEEKLY ESSAY 10 (Group B)

Thursday, November 18
   Feinberg, Chapter 9

Saturday, November 20
   MID-ATLANTIC REGIONAL ETHICS BOWL, JEPSON SCHOOL

Monday, November 22
   WEEKLY ESSAY 11 (Group A)

Tuesday, November 23
   Feinberg, Chapter 9

Wednesday, November 24
   TERM PAPER DUE (Thanksgiving break begins)

Monday, November 29
   WEEKLY ESSAY 11 (Group B)

Tuesday, November 30
   Feinberg, Chapter 11

Wednesday, December 1
   WEEKLY ESSAY MAKE-UP (Group A or B)

Thursday, December 2
   Feinberg, Chapter 16

Tuesday, December 7, 2:00-5:00
   FINAL EXAM
REQUEST FOR EXTENSION/MAKE-UP

1. Today’s Date:

2. Original Assignment Date:

3. Reason for Extension/Make-up:

4. Proposed Due Date/Make-up Date:

5. Instructor Signature:

6. Your Signature:

Submit this form with the completed assignment (e.g., paper, make-up exam, etc.). This form will not be accepted if incomplete (e.g., if #5 is blank).