

On the Authority and Interpretation of Constitutions

Philosophy 4C03/6C03, (Fall, 2017)

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Office Hour: Thursday, 11:30 AM - 12:30 PM – or by appointment

COURSE DESCRIPTION

The focus of this course will be Joseph Raz's theories of *authority* and *interpretation*. Following an examination of his general views on these matters, we will turn to an exploration of the implications of Raz's views for the authority and interpretation of constitutions.

REQUIRED TEXTS

Joseph Raz, *Between Authority and Interpretation* (available via *Oxford Scholarship Online*, McMaster University Library)

Miscellaneous items available on *Avenue*

COURSE REQUIREMENTS

1. Seminar presentation.....**20%**
2. Short essay assignment, 3-5 pages in length (questions posted Oct 5; due Oct 19).....**30%**
3. Critical essay, due Nov 23 (Word Limit: Undergrad 3000; Grad 5000).....**50%**

TENTATIVE READING SCHEDULE

BAI = *Between Authority and Interpretation*

AL = *Avenue to Learn*

Week 1 (Sept 7) RP Wolff, *In Defense of Anarchism* (AL), pp. 3-17

Week 2 (Sept 14) Raz, "Authority, Law and Morality" (AL)

Week 3 (Sept 21) The Problem of Authority: Revisiting the Service Conception, BAI
pp. 126-165

- Week 4 (Sept 28) About Morality and the Nature of Law, BAI pp. 166-181
- Week 5 (Oct 5) Waluchow, “Charter Challenges: A Test Case for Theories of Law” (AL)
- Week 6 Mid-Term Break
- Week 7 (Oct 19) Incorporation by Law, BAI 182-202
- Week 8 (Oct 26) Why Interpret?, BAI pp. 223-240
- Week 9 (Nov 2) Intention in Interpretation, BAI pp. 265-298
- Week 10 (Nov 9) Interpretation: Pluralism and Innovation, BAI pp. 299-322
- Week 11 (Nov 16) Waluchow, “Constitutional Interpretation” (AL)
- Week 12 (Nov 23) On the Authority and Interpretation of Constitutions: Some Preliminaries” BAI pp. 323-352
- Week 13 (Nov 30) On the Authority and Interpretation of Constitutions: Some Preliminaries” BAI pp 352-372

NOTES

1. Seminar presentations will be judged on the basis of two criteria: 1. success in outlining the main themes and arguments of the readings assigned for that week; 2. success in highlighting one or more philosophically interesting issues worthy of class discussion. Given the numbers enrolled in the course, seminar presentations will be joint efforts.
2. 5 marks (out of 100) will be deducted from Essay grades for every 100 words in excess of the prescribed limit.
3. 5 marks per day (out of 100) will also be deducted for late Essays. Exceptions will be made only if you have a legitimate excuse. A legitimate excuse is whatever your Faculty Office will accept. Take your documentation to your Faculty Office. In due time they will send me a memo.
4. Academic dishonesty consists of misrepresentation by deception or by other fraudulent means and can result in serious consequences, e.g. the grade of zero on an assignment, loss of credit with a notation on the transcript (notation reads: “Grade of F assigned for academic dishonesty”), and/or suspension or expulsion from the university. It is your responsibility to understand what constitutes academic dishonesty. For information on the various kinds of academic dishonesty please refer to the Academic Integrity Policy, located at <http://www.mcmaster.ca/policy/Students-AcademicStudies/index.html>

The following illustrates only two forms of academic dishonesty:

(a) Plagiarism, e.g. the submission of work that is not one's own or for which other credit has been obtained.

(b) Improper collaboration on essays or critical reflections.

5. Essays must be submitted electronically via *Avenue to Learn*. You are required to keep copies (electronic or hard) of all work submitted.

5. The scale used by the Registrar's Office will be used to convert number grades to final letter grades.

7. Course evaluations will be done at the end of the course.

8. It is the policy of the Philosophy Department that all email communication between students and instructors (including TAs) must originate from their official McMaster University email accounts. This policy protects the confidentiality and sensitivity of information and confirms the identities of both the student and instructor. Philosophy department instructors will delete messages that do not originate from McMaster email account.