

Philosophy 392 (CHV 392 / WOM 392). Sex and Ethics

Spring 2011

Tuesday and Thursday, 1:30-2:50pm

McCosh 66

PROFESSORS

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COURSE DESCRIPTION

An examination of the moral principles governing sexual activity. Questions to be addressed include: What is consent, and why is it morally significant? Is sex between consenting adults always permissible, and if not, why not? Are there good reasons for prohibiting prostitution and pornography? Is non-procreative sex morally wrong? Is there such a thing as sexual perversion? Why is marriage morally important? Is polygamy morally objectionable? Should we use the law to enforce controversial principles of sexual morality? Everyone has opinions about these matters. The aim of the course is to subject those opinions to scrutiny.

COURSE REQUIREMENTS

Final grades will be determined as follows:

10% Class Participation and homework

10% Two Argument Analyses (each is 2-3 pages)

50% Two Papers (one six pages; one eight pages)

30% Final Exam

An "F" on an argument analysis, on a paper, on the final exam or for class participation will result in an "F" in the course.

(There is no midterm exam)

Readings: All assigned readings are mandatory and should be completed before the course meeting at which they are to be discussed. Often the readings are short but you may have to read them more than once to understand them and to be able to participate in discussion. All readings will be available on Blackboard or on the web. You are required to *print out* all readings and *bring them* to the course meetings at which they will be

discussed.

Attendance is mandatory. If you know you need to miss class, please email both Professor Harman and Professor Rosen before class. If you unexpectedly have to miss class, please email after class. If you do miss class, it is your responsibility to find out from another student what happened and to get copies of notes and handouts. After doing that, if you have questions about what was covered, please do meet with one of us to discuss them. Some material will only be covered in class, and you will be responsible for that material on your papers and exam.

Everyone will be expected to participate in discussion *regularly*.

At the end of the semester, we will have a **colloquium** at which several students will present papers for discussion.

For each **argument analysis**, a short passage will be distributed. In 2-3 pages, you will explain the argument in the passage. Further instructions will be distributed with the first assignment.

Late papers will be penalized one-third of a letter grade for each day late (for example, from A to A-, from A- to B+, and so on). Weekend days count. If you finish a late paper during a weekend, email it to us right away, and turn in a hard copy later. A paper is one day late if it is at all late; two days late if it is more than 24 hours late; three days late if it is more than 48 hours late; etc. Papers are due at the *start of class* on their due date; if they are not turned in at the start of class, they are one day late.

Extensions: Extensions will not be granted except under extreme circumstances.

Plagiarism: Plagiarism is very serious. If we suspect plagiarism, we will refer the case to the University Committee on Discipline. If plagiarism is found to have occurred, this will result in an “F” on that assignment, and as a result, an “F” in the course (as well as whatever penalties are imposed by the University Committee on Discipline). For an introduction to what constitutes plagiarism, please read the guide “Academic Integrity at Princeton,” which can be found here:

http://www.princeton.edu/pr/pub/integrity/08/academic_integrity_2008.pdf

Consult us if you have any further questions.

Dropping the Course: If you know you are going to drop the course, please email Professor Harman right away.

Auditing the Course: Undergraduates may not audit the course. Graduate students who want to audit the course need the permission of the instructors. (Graduate students who want to take the course for credit also need the permission of the instructors.)

Major Deadlines:

Homework deadlines will be announced when the assignments are given.

Tuesday, February 15: First argument analysis due (2-3 pgs)

Tuesday, March 1: Second argument analysis due (2-3 pgs)

Tuesday, March 29: First paper due (approx. 6 pgs)

Thursday, April 9: Second paper due (8 pgs)

May 2010: Final Exam

CALENDAR

This calendar is approximate. This list of readings is tentative. Readings may be removed, and readings will be added.

All readings will be available on the course Blackboard site, or can be found at the websites listed with the readings.

For some readings, only part of the document is assigned. In these cases, the syllabus lists which selection should be read.

Updates to the syllabus will occur. Go to Blackboard for the most recent version of the syllabus.

I. Preliminaries: Introduction to the Course

Tuesday, February 1 – Introduction to the course

II. Consent: What is consent, and why it is morally significant?

Thursday, February 3 – Harm

- James Pryor, “Philosophical Terms and Methods” available at <http://www.jimpryor.net/teaching/vocab/index.html> (Read all six sections.)
- Mill, “On Liberty” ch. 1
- Wertheimer, *Consent to Sexual Relations*, ch. 5

Tuesday, February 8 – What is consent and why does it matter?

- Wertheimer, *Consent to Sexual Relations*, ch. 6, 7
- Schulhofer, “Taking Sexual Autonomy Seriously”

Thursday, February 10 – Coercion

- Kim Scheppele, “The Reasonable Woman”
- *State v. Rusk* 289 Md.230, A.2d 720 (1981) and notes.
- *State in the Interest of M.T.S.*
- Wertheimer, *Consent to Sexual Relations*, ch. 8
- optional: Nozick, “Coercion”

Tuesday, February 15 – Deception

- People v. Evans 85 Misc. 2d 1088, 375 N.Y.S. 2d 912 (1975)
- Boro v. Superior Court, 163 Cal. App. 3d 1224, 210 Cal. Rptr. 122 (1985)
- Wertheimer, *Consent to Sexual Relations*, ch. 9
- First Argument Analysis (2-3 pages) due at the beginning of class

Thursday, February 17 – Competence (with a digression on statutory rape)

- Oberman, “Turning Girls into Women: Re-Evaluating Modern Statutory Rape Law,” J. Crim. Law & Criminology 85:1 (1994)
- Wertheimer, *Consent to Sexual Relations*, ch. 10
- *Regina v. Prince*, L.R. 2 Cr. Cas. Res. 154 (1875)

Tuesday, February 22 – Mens Rea

- *Commonwealth v. Sherry* 368 Mass. 682, 437 N. E. 2d 224 (1982)
- *Commonwealth v. Fischer* 721 A. 2d 111 (1998)
- E. M. Curley, “Excusing Rape”, *Philosophy and Public Affairs* 5:4 (1976)

Thursday, February 24 – Date rape

- “Acquaintance Rape of College Students” a guide to policing by the Center for Problem-Oriented Policing, available at <http://www.popcenter.org/problems/rape/print/>
- listen to NPR’s “Rape Victims Find Little Help on College Campuses” (4 min 7 sec) at <http://www.npr.org/templates/story/story.php?storyId=124148857>
- listen to NPR’s “Myths that Make it Hard to Stop Campus Rape” (4 min 49 sec) at <http://www.npr.org/templates/story/story.php?storyId=124272157>
- listen to NPR’s “College of Holy Cross Responds to Campus Assault” (13 min 54 sec) at <http://www.npr.org/templates/story/story.php?storyId=124199190>
- Katie Roiphe, “Date Rape’s Other Victims,” New York Times, June 13, 1993, adapted from her book *The Morning After: Sex, Fear, and Feminism*
- Alan Soble, “Antioch’s ‘Sexual Offense Policy’: A Philosophical Exploration”

III. Prostitution

Tuesday, March 1

- Onora O’Neill “Between Consenting Adults”
- Yolanda Estes, “Prostitution: A Subjective Position” from Soble, ed., *The Philosophy of Sex*

Thursday, March 3

- Joel Feinberg, “Legal Paternalism”

- Richard Arneson, “Joel Feinberg and the Justification of Legal Paternalism”
- Second Argument Analysis (2-3 pages) due at the beginning of class

Tuesday, March 8

- Peter de Marneffe “A Paternalistic Case for Prostitution Laws” (first chapter of his book Liberalism and Prostitution)
- Debra Satz, “Markets in Women’s Sexual Labor”

Thursday, March 10

- Martha Nussbaum, “‘Whether from Reason or Prejudice’: Taking Money for Bodily Services”
- Scott Anderson, “Prostitution and Sexual Autonomy: Making Sense of the Prohibition of Prostitution”

Spring Recess is March 12-20

IV. Pornography

Tuesday, March 22

- Catherine MacKinnon, selections from Feminism Unmodified
- Diana E. H. Russell, “Pornography and Rape: A Causal Model” in Feminism and Pornography, Drucilla Cornell, ed.
- Martha Nussbaum, “Objectification”, Chapter 8 of Sex and Social Justice

Thursday, March 24

- American Booksellers, Inc. v. Hudnut, 771 F.2d 323 (7th Cir. 1985)
- Don Adams, “Can Pornography Cause Rape?”

Tuesday, March 29

- J.L. Austin, selections from How To Do Things With Words
- First Paper (approx. 6 pages) due at the beginning of class

Thursday, March 31

- Rae Langton, “Speech Acts and Unspeakable Acts”
- Cynthia Stark, “Is Pornography an Action?: The Causal vs. the Conceptual View of Pornography’s Harm”
- Maitra and McGowan, “The Limits of Free Speech: Pornography and the Question of Coverage” *Legal Theory* Vol. 13, Issue 1, 41-68

V. Sexual Harrassment

Tuesday, April 5

- Elizabeth Anderson, “Recent Thinking About Sexual Harrassment: A Review Essay” *Philosophy and Public Affairs* 2006

VI. The Conservative Critique of Liberal Sexual Morality

Readings to be announced

Thursday, April 7

Tuesday, April 12

Thursday, April 9

- Second Paper (approx. 8 pages) due at the beginning of class

Tuesday, April 19

Thursday, April 21

Tuesday, April 26

Thursday, April 28

To Be Scheduled: A colloquium discussion of some student papers.

During May Exam Period: Final Exam

For Tue Apr 5:

Elizabeth Anderson, "Recent Thinking About Sexual Harassment"

For Thur Apr 7:

The topic for Thursday is sexual perversion. I've posted two readings: T. Nagel, "Sexual Perversion" and ch. 10 of R. Scruton, *Sexual Desire*. The Scruton chapter is quite long. If you don't have time to read it all, read the first section and then choose two or three of your favorite perversions and read what Scruton has to say about them.

For Tue Apr 12:

Grisez, Boyle and Finnis, "Practical Principles, Moral Truth and Ultimate Ends". This is a manifesto for the natural law theory that forms the background for much of what comes next. Focus on sections I-VIII, and don't worry about trying to make sense of every ¶. It's pretty obscure in places. We just need the main ideas.

For Thur Apr 14:

two chapters from Robert George and Patrick Lee, 'Body-Self Dualism in Contemporary Ethics and Politics'. Ch. 3 is about the ethics of drug use. It's important for our purposes because it argues that pleasure is not worth pursuing for its own sake, an important premise in the case against non-procreative sex in ch. 6.

For Tue Apr 19:

The main reading for Tuesday is Lawrence v. Texas:

<http://www.law.cornell.edu/supct/html/02-102.ZS.html>

Read the majority opinion, O'Connor's concurrence and Scalia's dissent. Don't worry about the legal arcana. Kennedy's opinion argues that the Due Process Clause of the 14th Amendment protects a right to 'liberty' that includes a right to engage in sodomy. Focus on the content of that right and its alleged constitutional basis.

The secondary reading -- useful background for Thursday -- is Perry v. Schwarzenegger:

<https://ecf.cand.uscourts.gov/cand/09cv2292/files/09cv2292-ORDER.pdf>

Skim the findings of fact (54ff) and focus on the Conclusions of Law (109 ff.)

For Thur Apr 21 and Tue Apr 26:

Girgis, George and Anderson, 'What is Marriage?':

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1722155

For Thur Apr 28:

Replies to the "What is Marriage?" article and their counter-replies:

Reply: <http://www.nationalreview.com/articles/263672/two-views-marriage-jason-lee-steorts>

Counter-reply: <http://www.nationalreview.com/articles/263679/real-marriage-sherif-girgis>

About infertile couples

Reply: <http://www.slate.com/id/2278794/>

Counter-reply: <http://www.thepublicdiscourse.com/2011/01/2295>

About whether marriage isn't purely a social construct (there's another exchange on this topic, which you can find at thepublicdiscourse under "Does Marriage, or Anything, Have Essential Properties?")

Reply: <http://balkin.blogspot.com/2010/12/what-marriage-isnt.html>

Counter-reply: <http://www.thepublicdiscourse.com/2010/12/2263>

About what they mean by 'real bodily union' and why it should matter

Reply: <http://familyscholars.org/2010/12/21/what-is-bodily-union-a-response-to-what-is-marriage/>

Counter-reply: <http://www.thepublicdiscourse.com/2010/12/2277>