

Room 118 (114 on 3/1)
Feb. 27, Feb. 28, and March 1, 2 and 3

Professor Lynn A. Stout
Chesley Distinguished Visitor

(SPRING 2011)

CULTIVATING CONSCIENCE

Course Number: 24 SPCL 723 001

Call Number: 000104

This is an intensive short course that meets on a special schedule

SYLLABUS

This one-credit course will investigate the relationship between law and policy and the phenomenon of unselfish prosocial behavior ("conscience"). Students will be graded on the basis of a short paper. Grades will consist of High Pass; Pass, Low Pass; and Fail.

Prerequisites: None

Enrollment: Open

Meets the Seminar Requirement? No

Meets the Writing Requirement? No

Meets Client Counseling Requirement? No

COURSE DESCRIPTION

Economic theory has had an enormous influence on contemporary legal thinking and the legal curriculum. Economic theory, however, traditionally assumes people are always rational and always selfish. In recent years a new school of social science has emerged to challenge these assumptions. "Behavioral economics" investigates how real people behave in real situations. Behavioral economists have demonstrated under laboratory conditions that people in fact often act irrationally and also often act unselfishly.

CULTIVATING CONSCIENCE: HOW GOOD LAWS MAKE GOOD PEOPLE is a recently-published book that focuses especially on our human capacity to act unselfishly. The book argues that by focusing so much on bad behavior, we neglect the crucial role our consciences play in shaping human behavior. Tapping into our potential for conscientiousness can sometimes be superior to emphasizing selfishness and material incentives as a way to get people to behave appropriately.

The class will explore these and other ideas, drawing from the disciplines of social psychology, behavioral economics, and evolutionary biology, and discuss how the legal system can use social cues to craft better laws and to encourage unselfish, ethical behavior in many areas, including politics and business. In particular, the course will consider the role tort liability plays in deterring people from injuring others; whether selfishness should and does underlie “relational” contracts like those for employment or marriage; and whether criminal law is best understood as system for deterring bad behavior through carefully-calibrated punishments. Students are invited to explore the lessons of behavioral economics for these and other areas of law as well, such as environmental law, antidiscrimination law, corporate law, or civil procedure.

READING ASSIGNMENTS

The primary text for the course IS STOUT, CULTIVATING CONSCIENCE: HOW GOOD LAWS MAKE GOOD PEOPLE, Princeton University Press, 2011. Please read the book in its entirety (254 pages) before the first day of class.

MEETING TIMES

Class will meet as follows:

Sunday, February 27 from 9:00 am to noon
Sunday, February 27 from 1:15 pm to 4:15 pm
Monday, February 28 from 12:15 pm to 1:20 pm
Tuesday, March 1 from 12:15 pm to 1:20 pm (held in Room 114)
Wednesday, March 2 from 12:15 pm to 1:20 pm
Thursday, March 3 from 12:15 pm to 1:20 pm

One follow-up meeting will be scheduled of approximately 1.5 hours to be held after papers are turned in.

Please note that because this is a short course that meets over a short period of time, you are expected to attend each segment of the class. Two segments take place on February 27 and one each day February 28 and March 1-3. If for some extraordinary reason you must miss one segment, you must email Cheryl DelVecchio at cheryl.delvecchio@uc.edu in advance of your absence in order to be excused and you will have to write a longer paper. Credit will not be given for a student who has an unexcused absence or who misses more than one segment. Therefore, do not sign up for this class if you know you will miss any of these class meetings.

GRADING

At the end of class on March 3, you will be assigned to write a short, 5 to 7 page paper on a subject that fits into the broad category of “law and prosocial behavior.” You are free to choose virtually any topic for your paper provided it addresses how legal

rules influence prosociality and/or how prosocial behavior influences legal rules. Your paper should reflect the class readings, class discussions, and your own analysis of the topic you select. You may exceed the 7 page limit but must write at least 5 pages. If you miss a segment of the class, you must write at least 10 pages.

COURSE STRUCTURE

The course will be broken into three parts. The first part (morning segment of February 27) will focus on understanding the phenomenon of prosocial behavior and the basic relationship between prosocial behavior and social cues. The second part (afternoon segment of February 27) will focus on understanding the implications of prosocial behavior for tort, contract, and criminal law. During the third part of the course (the segments of February 28 and March 1-3), students will work in groups to select and to lead class discussions on public policy problems, legal doctrines, or other topics relevant to prosocial behavior.

SUGGESTED PAPER/GROUP DISCUSSION TOPICS

These are only examples of topics you may want to explore that focus on the intersection between law and prosocial behavior. Although you are free to select a topic from this list, you are also invited to create your own.

Smoking and the tobacco industry	Criminal behavior by corporations
White collar crime	Employment discrimination
Affirmative action	Prison reform
Human organ donation and sale	Deterrent effect of the death penalty
Executive compensation	Tax avoidance and compliance
Marriage and divorce law	Teen driving
Fast food and the food industry	Welfare reform
Judge versus jury decisionmaking	Litigation and settlement behavior
Animal welfare	Global warming
Immigration policy	Environmental regulation
Social Security and retirement policy	Contract law enforcement
Adoption law	Health care policy
Income and wealth distribution policy	The estate tax
Punitive damages	Punitive Damages
Health care provision	Strict Liability Rules
Racial profiling in law enforcement	Prostitution and other "victimless" crimes
Terrorism and Homeland Security	Torture and Human Rights
Regulating Banks and Wall Street	Elections and Political Campaigns