

Spring 2024
GOV 335D / PHL 342

NATURAL LAW THEORY

Professor Budziszewski

Unique numbers: GOV unique number 37320, PHL unique number 40585

Class meets: MW 10:00-11:30am in JES A217A

Prof's office hours: MW 3:30-5:00pm in MEZ 3.106

Prof's email: For official University business, my address is jbudziszewski@austin.utexas.edu, or use Canvas. For personal matters, for example if you want to tell me how you're doing after the seminar is over, use jbud@undergroundthomist.org.

Prof's office phone: Does not record messages. Use email instead.

TA: Samuel Thompson

TA's office hours: TBA

Course website: Canvas

Prof's website: The Underground Thomist, <http://UndergroundThomist.org>. Except for the FAQ and a few other items, the various pages of the website reflect my publications, an explanation of how I journeyed from nihilism to faith, and personal reflections on all sorts of things. These pages are not part of the course, and you are not required to read them (although, of course, you are welcome to do so).

Course policies: Visit the Teaching page of my own website, <https://undergroundthomist.org>. Scroll down to the bottom section, "Other Things My Students May Need." Read the FAQ. This FAQ is required reading.

PREREQUISITES, FLAGS, AND FIELD

The course can be taken as either GOV 335D or PHL 342. It carries a writing flag and fulfills part of the basic education requirement in writing. If taken as a

government course, enrollment requires six semester hours of lower-division government. The subfield is Political Theory / Political Philosophy.

DESCRIPTION

“Natural law” refers to moral law – in particular, the fundamental moral principles that are built into the design of human nature and lie at the roots of conscience. Natural law thinking is the spine of the Western tradition of ethical and legal thought. The founders of the American republic also believed in the natural law -- in universal and “self-evident” principles of justice and morality which the Declaration of Independence called “the laws of Nature and of Nature’s God.” For generations afterward, most Americans took the reality of natural law for granted. Thomas Jefferson appealed to it to justify independence; Abraham Lincoln appealed to it to criticize slavery; Martin Luther King appealed to it to criticize Jim Crow laws. You would hardly guess any of this from the present day, because belief in natural law has come to be viewed as “politically incorrect.” Nevertheless, the tradition of natural law is experiencing a modest renaissance.

Is there really a natural law? What difference does it make to society and politics if there is? Is it really “natural”? Is it really “law”? To consider these questions, we will read a variety of influential works on natural law from the middle ages to the present. Probably, most of your liberal arts education has implicitly rejected the whole idea, but in this course, for a change, you have an opportunity to hear the other side.

We will focus on the *classical* natural law tradition, not revisionist versions such as the one promoted by the social contract writers of the early modern period. We begin with the ethical and legal thought of the most important and influential classical natural law thinker in history, Thomas Aquinas. He is a difficult writer, but we will work through his *Treatise on Law* carefully and I will provide lots of help. After that, we will consider the continuing influence of the classical natural law tradition, reading a variety of authors including Thomas Jefferson, U.S. Supreme Court Associate Justices John McLean and Benjamin Curtis, Abraham Lincoln, Justin Buckley Dyer, Martin Luther King, C.S. Lewis, John Hittinger, Robert C. Koons, Matthew O’Brien, and myself.

REQUIREMENTS AND GRADING POLICY

Feedback on writing is an important part of this course.

Unit 1, Foundations of Law: Analytical outline, 15-20 pages using the formatting explained in the FAQ at my personal website (25%). *Use of artificial intelligence, such as ChatGPT, is not permitted and will cause failure in the course.*

Unit 2, Natural and Human Law: Take-home essay, no more than 1800 words, which comes to 4 full pages using the formatting explained in the FAQ at my personal website (25%). *Use of artificial intelligence, such as ChatGPT, is not permitted and will cause failure in the course.* You will find rubrics for the essay and for citations, in the Files section of our Canvas page. Also in the Files section, see “On the Importance of Punctuation.”

Unit 3, Legacy of the Classical Natural Law Tradition: Whole-course reflection journal, including three or four reflections per week (25%). *Use of artificial intelligence, such as ChatGPT, is not permitted and will cause failure in the course.* Here is how this works: You will write one reflection on the assigned readings each class day. You will turn these in, and you will also keep them in a reflection journal. Each should be up to a half a page. Besides the daily reflections you turn in, you will add another one or two reflections to your reflection journal each week, and these may be about the assigned readings, the lectures, class discussion, the recommended readings, the applicability of the readings to current events, or anything else you may think of. Thus, *in total* you will write three or four reflections for your journal each week (the two daily reflections plus one or two more). The journal will be turned in at the end of the course and will be the basis of your Unit 3 grade. You will find a rubric for the reflection journal in the Files section of our Canvas page.

Short quizzes on the required readings (25%). You may use your analytical outlines – but no other notes or material – on the quizzes. Besides the required quizzes on the required readings, there will be few extra credit quizzes on the recommended readings – the grade on an extra credit quiz *replaces* the lowest score up to that point on a required reading.

In each of Units 2 and 3, students may earn a maximum of 5 points, added to that unit’s grade, for turning in an analytical outline of each of that unit’s readings.

Class participation and absences also affect your grade. Please read the attendance policy in the [Frequently Asked Questions section](#) of my personal scholarly website.

I do not use plusses and minuses in reporting final course grades to the registrar.

See the “Other things my students may need” section at the bottom of the Teaching page at my personal website: <http://www.UndergroundThomist.org/teaching>, especially the course policies in the FAQ, which I expect you to know.

TEXTS

The book will be on reserve at both the Perry-Castaneda Library and the Tarleton Law Library. However, if you don’t have a personal copy, you must be prepared to share

with another student during class. Electronic devices such as laptops, cellphones, sound recorders, and smart pens must be powered down and stowed away during class. There are no exceptions except for pacemakers.

Required:

J. Budziszewski, *Commentary on Thomas Aquinas's Treatise on Law* (Cambridge, 2014). This is a paperback.

A number of shorter readings, some of which will be available on Canvas, others elsewhere on the internet.

Recommended:

J. Budziszewski, *Companion to the Commentary* (Cambridge, 2014). This is free and will be available through Canvas.

ADDITIONAL MATERIAL THE UNIVERSITY ASKS FACULTY TO INCLUDE

Needless to say, academic honesty is expected and academic dishonesty is penalized. Plagiarism is absolutely forbidden. See the University Honor Code at registrar.utexas.edu/catalogs/gi09-10/ch01/index.html.

By University policy, you must notify me of any pending absence due to your observance of a holy day of your religion at least fourteen days prior to the day. Since the only exams are take-home exams, University policies about exams and assignments missed because of holy days do not apply to us.

Students with disabilities may request appropriate academic accommodations from the Division of Diversity and Community Engagement, Services for Students with Disabilities. Call 471-6259, or find the office at www.utexas.edu/diversity/ddce/ssd.

Occupants of buildings on The University of Texas at Austin campus are required to evacuate buildings when a fire alarm is activated. Alarm activation or announcement requires exiting and assembling outside. You should follow my instructions, and familiarize yourself with all exit doors of the seminar room and the building in which it is located, bearing in mind that the nearest exit door may not be the one you normally use. If you requiring assistance in evacuation, the University requires you to inform me in writing during the first week of class. In the event of evacuation, do not re-enter the building unless given instructions by the Austin Fire Department, the University Police Department, or the Fire Prevention Services office. The Behavior Concerns Advice Line is 512-232-5050. More information about emergency procedures and evacuation routes can be found at www.utexas.edu/emergency

Current law also requires faculty to report for investigation any information shared with them concerning incidents of sexual harassment, assault, misconduct, discrimination, etc., committed by or against a University student or employee. Reported information cannot be kept confidential. If you do need confidentiality, the University suggests that instead you contact [University Health Services](#) or the [UT Counseling and Mental Health Center](#).

COURSE CALENDAR

Introduction

| SESSION | DATE | READINGS |
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| In the <i>Commentary on Thomas Aquinas's Treatise on Law</i> , you should always read not only the items indicated below, but also the prologues and the “before reading” sections. Always read the corresponding parts of the <i>Companion to the Commentary</i> too. The <i>Companion</i> is online in the Files section of our Canvas page. | | |
| Session 1 | Wednesday 17 January | <p>I suggest reading each assignment several times <i>before</i> the day of class, and analytically outlining it <i>whether or not</i> you are required to submit the outline for a grade, as you are in Unit 1. Do your outlines as you go along. It is impossible to do them well at the last minute at the end of a unit, and it will do you far less good.</p> <p>Study questions are provided for each reading. These are not exhaustive; they are meant just to get you started. As you read, you should also write down the questions that occur to you, and bring them with you to class. Often I call on a student at the beginning of class to ask, “What is your question today?”</p> <p>A good deal of discussion is interspersed with lecture. On scheduled all-discussion days, each of you must also bring in two copies of a <i>printed-out</i> question, one copy to keep, the other to turn in.</p> <p><i>For anything you hand in, use of AI is not permitted and will cause failure in the course.</i></p> |

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| | | Introduction to the course. Carefully consider the organization of the Unit 1 readings. |
| Why does St. Thomas divide up his questions as he does? <i>What do you, personally, hope to learn in this seminar?</i> | | |

Unit 1: Foundations of Law

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| Session 2 | Monday 22 January <p>Read <i>Treatise on Law</i>, Question 90, including the commentary on that question, in Budziszewski, <i>Commentary on Thomas Aquinas's Treatise on Law</i>. Also read the Introduction to the <i>Commentary</i>. Be prepared for discussion. Quiz #1.</p> <p>Though I won't keep saying it, I <i>always</i> recommend that you also read the "Discussions" on the assigned parts of the <i>Treatise on Law</i> in the <i>Companion to the Commentary</i>, which is online in the Files section of our Canvas website. The <i>Companion</i> isn't the same as the <i>Commentary</i>; it's the free partner volume.</p> <p>Examine the <i>Diagram of the Architecture of Law</i>, which is in the Files section of our Canvas page. You may want to bookmark it, because you will refer to it often.</p> <p>I also suggest reading the one-page <i>Guide to Eponyms and Other Oddments for Thomas Aquinas</i>, which is also in the Files section. This may spare you some confusion later on.</p> |
| What is St. Thomas's initial definition of law? Why does he start with it? What is his final definition of law? How does he get from the initial definition to the final definition? | |

Is he rejecting or refining the initial definition? What are the four parts of the final definition? What do they mean? Why does the definition have just these parts, instead of, say, two parts, or seven parts, or a different four parts?

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| Session 3 | Wednesday 24 January | Continuing Question 90. Bring a printed copy of your journal of reflections on the readings to date to class for a progress check (not the same as your analytical outline); I want to see how you're doing. Your journal entries should be typed and printed out, not written by hand. I encourage you to study together, but the journal is <i>yours</i> , so work on it independently. <i>Remember, no AI.</i> Be prepared for discussion. I may call on you. |
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Is a law that lacks some of these parts a bad law, or not a law at all? So what that law has to have these four qualities? What difference does it make? What is an unjust law? Briefly, how would St. Thomas respond if we said law is nothing but the command of the power with the biggest stick? Briefly, how would he respond if we said law is nothing but a social convention?

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| Session 4 | Monday 29 January | Read <i>Treatise on Law</i> , Questions 91-92, including the commentary on those questions, in Budziszewski. Quiz #2. |
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What is eternal law? Does St. Thomas believe in it because of the Bible or for a different reason? What is the natural law? What sorts of precepts does it include? How do we know what it is? What does he mean when he says that our minds "participate" in the eternal law? Why is it even a question whether there is such a thing as human law? How is Divine law different from eternal law? Considering that we have both natural and human law, why on earth do we even need a Divine law? If God knows what He is doing, then why must there be two editions of Divine law? What is the difference between these two editions? In what sense or senses is human law "derived" from these other laws? Since law is an ordinance of reason for the common good, why does St. Thomas even ask whether there is a "law of sin" -- how could there be? What is this "law of sin"? Is it literally a law? The term itself comes from the Bible. Does that mean we would have to consider the Bible as a revelation from God to think the idea has any merit, or might the idea have value for us even if we didn't?

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| Session 5 | Wednesday 31 January | Continuing Questions 91-92. Bring a printed copy of your analytical outline of the readings to date (not the same as your journal) to class for a progress check; I want to see how you're doing and provide feedback. Your analytical outline should be typed and printed out, not written by hand. You must work independently. Remember, no AI. Be prepared for discussion. I may call on you. |
| What is virtue? In what sense does virtue “make” men good? Does the law really bring men to virtue? Should it? How does it do so? To what extent does it do so? Would an unjust law do so? How are acquired and infused virtues different? Through what “operations” does law achieve its effects? What do we gain from having a list of these operations? Is St. Thomas’s list exhaustive? | | |
| Session 6 | Monday 5 February | Read <i>Treatise on Law</i> , Question 93, including the commentary on that question, in Budziszewski. Quiz #3. |
| What on earth does St. Thomas mean by a “sovereign type existing in God”? In what sense do we know the eternal law, and in what sense do we not know it? If there were no eternal law, would the other kinds of laws really be laws? St. Thomas discusses only the attributes of eternal law; he assumes that the reader already knows its reality. Why? Suppose the reader doesn’t already know the reality of eternal law. How would St. Thomas demonstrate it? Why shouldn’t he say “Just take it on faith” -- after all, he expects the reader to take Divine law on faith, doesn’t he? For that matter, how is faith itself related to reason? | | |
| Session 7 | Wednesday 7 February | Continuing Question 92 and 93. Bring your <i>journal</i> , not your outline, to class for a progress check; I want to see how you’re doing and provide feedback. Remember, no AI. |
| Is God free to disobey His own eternal law? Why or why not? In what sense do things like planets and oceans and cattle obey the eternal law, and in what sense do they not? Can we humans disobey it? Can we escape it? | | |

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| Session 8 | Monday 12 February | Unit 1 discussion day. You are REQUIRED to bring in <i>two copies</i> of a printed-out question for discussion – one to turn in, one to hold onto during class. <i>Remember, no AI.</i> |
| What do you <i>really</i> want to ask or discuss about anything connected with Unit 1? | | |

Unit 2: Natural and Human Law

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| Session 9 | Wednesday 14 February | Read <i>Treatise on Law</i> , Question 94, including the commentary on that question, in Budziszewski. ALSO REQUIRED: Budziszewski, Chapter 6, “Some Objections,” in the FILES section of Canvas. Today you will turn in your analytical outline of the Unit One readings for a grade. <i>Remember, no AI.</i> Quiz #4. |
| What are the four consideration, or sources of moral knowledge, of which natural law theory makes use? How is natural law natural, and how is it law? Some ethical thinkers say “rule ethics” and “virtue ethics” are different -- how is the natural law <i>related</i> to the virtues? What is at stake in asking whether the natural law contains one precept or more than one precept? Does natural law get an <i>ought</i> from an <i>is</i> ? If it does, is that a fallacy? What are the three levels of natural inclination? What is <i>synderesis</i> , and how is it different from <i>conscientia</i> ? | | |
| Session 10 | Monday 19 February | Continuing Question 94. Be prepared for discussion. I may call on you. RECOMMENDED BUT NOT REQUIRED: Budziszewski, “The Same as to Knowledge,” available on Canvas. |
| Suppose someone justified his adultery by saying “I was born this way – it’s natural for me.” How would St. Thomas reply? For that matter, <i>could</i> different human beings have different natures? Could human nature change? What about the natural law -- in what sense <i>can</i> it change? In what sense can it <i>not</i> change? If it can change, then could, say, murder ever become right? For that matter, could eternal or Divine law change? Does | | |

everyone *really* know the general precepts of the natural law? What if they say they don't? Do they know them *all the time*? Could anyone *forget* it? What do these general principles include? What *don't* they include?

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| Session 11 | Wednesday 21 February | QUESTION 94 ONLY discussion day. You are REQUIRED to bring in two copies of a printed-out question for discussion – one to turn in, one to hold onto during class. |
| What do you <i>really</i> want to ask or discuss about anything connected with Unit 2? | | |
| Session 12 | Monday 26 February | Read <i>Treatise on Law</i> , Question 95, including the commentary on that question, in Budziszewski. Quiz #5. ALSO extra credit quiz #E1 on Budziszewski, “The Same as to Knowledge.” |

According to St. Thomas, why are human laws useful? Why on earth would anyone say that they aren't? Why does St. Thomas think they are mistaken? One of my own former teachers, a philosophical anarchist, held that *none* of the laws of the state are laws in St. Thomas's sense – he thought they are only edicts enforced by threats. Suppose he were right. What difference would it make? Suppose someone said to St. Thomas, “You claim that every human law is derived from the natural law, but lawmakers don't even think about the natural law. Probably lot of them haven't even heard of it.” How would he reply? Or suppose someone said to him that they couldn't all be derived from the natural law because some of them are unjust, or that they couldn't all be derived from the natural law because they vary from place to place. Now how would he reply?

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| Session 13 | Wednesday 28 February | Continuing Question 95. Be prepared for discussion. I may call on you. |
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As it turns out, “deriving” human laws from natural laws may mean several different things. What are they? Notice that St. Thomas doesn't ask whether every human law *should* be derived from the natural law, but whether every human law *is* derived from it. What is going on here? Why doesn't he ask whether every human law is, or perhaps should be, derived from the Divine law? In Q. 90, we've already studied the qualities enactments must have to be true laws. Here in Q. 95, Art. 3, with Isidore, are we starting over? In Q. 91, we've already studied the kinds of law. Here in Q. 95, Art. 4, are we

starting over? In Art. 4, it's easy to see why someone familiar with Roman law would find Isidore's "division" or classification of laws helpful, but has it any takeaway for us?

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| Session 14 | Monday 4 March | Read <i>Treatise on Law</i> , Question 96, including the commentary on that question, in Budziszewski. RECOMMENDED BUT NOT REQUIRED: Thomas Aquinas, <i>On Kingship</i> , Chapter 7, available on Canvas. Bring your journal to class for a progress check. Quiz #6. ALSO extra credit quiz #E2 on the <i>On Kingship</i> chapter. |
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St. Thomas asks whether every human law should be framed for the community. Didn't he already answer that back in Question 90, when he said law must be framed for the common good? Do all laws apply to everyone? Why *shouldn't* the law try to put down all vices? Why *shouldn't* it command every virtuous act? Do the previous two claims mean that law *isn't* about making men good, as he claimed it was back in Question 92? Some legal and political thinkers say the law should not concern itself with repressing vices because law should be ethically neutral. Is that St. Thomas's claim?

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| Session 15 | Wednesday 6 March | Continuing <i>Treatise on Law</i> , Question 96. Quiz #7. Be prepared for discussion. I may call on you. |
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St. Thomas seems to state a sort of harm principle. Is it the same sort of harm principle that J.S. Mill defended? (If you've never heard of Mill's argument, don't worry; we'll discuss it.) Once we have determined whether human law should repress all vices, why is it still necessary to ask whether it should command all acts of virtue? Aren't these questions the same? In Art. 4, the short answer to the question of whether we may disobey a law seems to be "it depends." So on what does it depend? Since in Art. 4, St. Thomas has already asked whether we may disobey a law, why is it still necessary to ask in Art. 6 whether we may disobey the letter of a law? Haven't we already settled that? May we every disobey a *good and just* law?

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| NO CLASS | Monday 11 March | SPRING BREAK. No class. |
| NO CLASS | Wednesday 13 March | SPRING BREAK. No class. |

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| Session 16 | Monday 18 March | Read <i>Treatise on Law</i> , Question 97, in the <i>Commentary</i> . Be prepared for discussion. I may call on you. Quiz #8. |
| Why would anyone think human law shouldn't ever change? Why does St. Thomas think that sometimes it should? Does he think what is right and wrong can "evolve"? Why on earth does he pay so much respect to custom? What would he make of bad customs? Can those who make laws also authorize exceptions to them? Wouldn't doing so be arbitrary and lawless? | | |
| Session 17 | Wednesday 20 March | Read <i>Treatise on Law</i> , Question 105, Article 1, including the commentary on that article. These are NOT in the <i>Commentary</i> , but on pp. 39-60 and 232-236 of the <i>Companion</i> . Be prepared for discussion. I may call on you. Quiz #9. |
| Here St. Thomas is writing about what might be called the Constitutional law of the Hebrew polity in the Old Testament – not the moral precepts or the ceremonial precepts, but a part of the judicial precepts, "precepts concerning rulers." According to him, these were obligatory only for the Jews, to whom they were given. Unless one is a Jew, then, why bother with them? Does he think that any aspects the precepts concerning rulers might be instructive to other nations too? If no, why not? If yes, how so? | | |
| Session 18 | Monday 25 March | Unit 2 discussion day. You are REQUIRED to bring in <i>two copies</i> of a printed-out question for discussion – one to turn in, one to hold onto during class. I will also assign a take-home essay, due Monday 1 April. You must work independently. <i>Remember, no AI for anything.</i> |
| What do you <i>really</i> want to ask or discuss? | | |

Unit 3: The Legacy of the Classical Natural Law Tradition

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| Session 19 | Wednesday 27 March | <p>Read James Otis, “The Rights of the British Colonies Asserted and Proved.” Then the red-highlighted sections of Hamilton, “The Farmer Refuted” (the sections in black are optional, and are provided only for context). Then read Thomas Jefferson, <i>Declaration of Independence</i>, then the paragraph the Continental Congress deleted from his rough draft of the <i>Declaration</i>, and finally <i>Notes on the State of Virginia</i>, Query 18. I would also like you to QUICKLY read Walsh, “Scholasticism in Colonial Colleges,” just to get an idea of how the Founding generation learned about the classical sources, including the classical natural law tradition. All five items are available on Canvas. Quiz #10.</p> |
| <p>How does Otis use natural law to justify the cause of the colonies? What views of natural law does Hamilton <i>defend</i>, and what views of it does he <i>criticize</i>? In what way does Jefferson think the <i>Declaration of Independence</i> depends on the natural law? How are natural <i>rights</i> related to natural <i>law</i>? Is the God of whom Jefferson speaks in the <i>Declaration</i> a faraway God who gave us natural laws and natural rights and then stopped bothering with us? How about the God of <i>Notes on the State of Virginia</i>? What do these documents say about slavery? How can they reconciled – or <i>can</i> they be reconciled – with the fact that Jefferson owned slaves?</p> | | |
| Session 20 | Monday 1 April | <p>Read the <i>dissenting</i> opinion of Justice John McLean in the U.S. Supreme Court case <i>Dred Scott v. Sanford</i>, 60 U.S. 393 (1857). Available on Canvas. Also read the <i>excerpts</i> from the dissenting opinion of Justice Benjamin Curtis in the same case. Today I will collect the take-home essays which were assigned on Monday 25 March. Remember, no AI. Quiz #11.</p> |
| <p>What does Justice McLean say about the natural law? Does he think the natural law allows slavery? If it doesn’t, then does he think the Supreme Court can abolish it? If not, then what <i>can</i> the Supreme Court do about it? Does he consider slavery a state or a federal institution? How much respect must the federal government give to state laws about the subject, and why? Does he think Congress has authority to abolish slavery? What is the effect of taking a slave into a state or territory where slavery is prohibited? If a former slave, now free, is returned to his</p> | | |

former master, should he be regarded as free or slave? Suppose someone is a slave. Then is he a mere chattel?

According to Justice Curtis, did the authors of the Declaration of Independence intend to say that only white men have natural rights? If not, then why didn't they abolish slavery immediately? What did they intend about slavery? Curtis says that each of the three common legal views of slavery rests on different premises. What are the premises of each one?

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| Session 21 | Wednesday 3 April | Read Abraham Lincoln, <i>Speech on the Dred Scott Decision</i> , and Dyer, “The Substance of Dred Scott and Roe v. Wade.” Both available on Canvas. Bring your journal to class for a progress check. Quiz #12. ALSO extra credit quiz #E3 on the Dyer article. |
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Of the three common legal views of slavery mentioned by Judge Curtis, whom you have read previously, which one does Lincoln's opponent, Judge Douglas, seem to hold? (I know you haven't read Douglas; use Lincoln's description of his views.) Douglas claims that he isn't taking a position on the right or wrong of slavery, but only on majority rule – that it is morally neutral, or pro-choice. Why does Lincoln think Douglas's position is *not* morally neutral, that it *does* imply a position on the right or wrong of slavery? How are Douglas's and Lincoln's respective views of the intentions of the authors of the Declaration of Independence like, or unlike, those of Justice McLean? Lincoln plainly doesn't believe that black and white persons should marry. Why not? Does his reason imply racial inequality?

Why does Dyer find it illuminating to compare the *Dred Scott* and *Roe v. Wade* decisions? In what ways does he find their reasoning similar and different?

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| Session 22 | Monday 8 April | Read Martin Luther King, <i>Letter from Birmingham Jail</i> , and John Hittinger, “Natural Law and Defense Policy.” Available on Canvas. Available on Canvas. Quiz #13. |
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In what ways does King depend on historical example? In what ways on the Bible? In what ways on natural law? How does his theory of civil disobedience draw from St. Thomas's, and in what way does it tweak it? Do you think the way he tweaks it is compatible or incompatible with the spirit of St. Thomas's theory?

In what way is just war theory an application of natural law? *How can* it be an application of natural law, for isn't it said that the natural law prohibits killing? What is the difference between *jus ad bellum* criteria and *jus in bello* criteria? What does Hittinger say about the criteria in each

category? Could the criteria be programmed on a computer, or can only a human mind apply them? If the latter, does that make them useless?

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| Session 23 | Wednesday 10 April | Read Robert Koons and Matthew O'Brien, “Who's Afraid of Metaphysics?” Available on Canvas. Quiz #14. |
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How does the so called “new” natural law theory (the NNL), which Koons and O’Brien criticize, differ from classical natural law theory? What do the NNL thinkers say about the relation between *is* and *ought*? What does the notion of a gap between *is* and *ought* have to do with natural law anyway? Do Koons and O’Brien say that most philosophers today would or would not defend the notion of such a gap? In what ways do they think one can reason from *is* to *ought*? In what ways do they think one can reason from *ought* to *is*?

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| Session 24 | Monday 15 April | Continuing the readings from Hamilton through Koons and O'Brien. Be prepared for discussion. I may call on you. |
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What do you *really* want to ask or discuss?

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| Session 25 | Wednesday 17 April | Read C.S. Lewis, <i>The Abolition of Man</i> , Chapter 1 <i>plus the Appendix</i> to the book. On reserve at Perry-Castaneda Library. Also available online at https://archive.org/details/TheAbolitionOfMan_229 . Quiz #15. Be prepared for discussion. I may call on you. |
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Lewis begins by criticizing an elementary textbook on literature. What does that have to do with natural law? What does Lewis mean by subjectivism about values? How is subjectivism about values reflected in *The Green Book*? About one silly confusion, Lewis cuts the authors of *The Green Book* some slack because they could have corrected their confusion without damage to their theory. What silly confusion is that, and why is it confused? What, in Lewis's view, is the deeper problem with position of the authors of *The Green Book*? What three reasons does Lewis think the authors of *The Green Book* might have for their position? What does he think about each of these three reasons? How does his view about emotions, and about the language that evokes them, differ from the view of the authors of *The Green Book*? In what sense can a *feeling* – which of course is not the same as reason – be *reasonable*? What is the difference between propaganda and propagation? What does Lewis mean by the Tao? Does he use this term because he is endorsing Taoism? Is the Tao the same as the first principles of natural law?

If so, why doesn't Lewis just say "the first principles of natural law"? Why does Lewis produce the Appendix? What does he think it demonstrates?

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| Session 26 | Monday 22 April | Read C.S. Lewis, <i>The Abolition of Man</i> , Chapter 2. Quiz #16. Be prepared for discussion. I may call on you. |
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If believing in a certain philosophy would destroy us, would that prove the theory false? Do the authors of *The Green Book* have a purpose in writing their book? What is the problem if they don't? More interestingly, what is the problem if they *do*? Where does Lewis say they get their values from, and where does he say they *think* they get their values from? Why couldn't they get them from where they think they get them? Why doesn't it work to say "Values originate in what is useful to the community" or "values originate in what is useful to the species"? Why doesn't it work to say "Values originate in instinct"? Suppose some Innovator says he is inventing a *new* morality from the ground up. On closer consideration, is he *really* inventing something new from the ground up? Or is he getting his new thing somehow from the old thing? Where then *do* our values originate – do they originate in something "more basic" than values, or are they in some sense *givens*? If they are in some sense *givens*, then are they arbitrary – could they be anything at all? Or are they static – could we never learn anything more about what is good than what we know already? To go back to the end of the previous chapter, what has this got to do with the Tao? What is the cliffhanger with which Lewis ends the chapter?

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| Session 27 | Wednesday 24 April | Read Huxley, "Transhumanism," then read Lee, "Imagine a Future Without Sex." Then, very carefully, read C.S. Lewis, <i>The Abolition of Man</i> , Chapter 3. Quiz #17. Be prepared for discussion. I may call on you. |
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How does this chapter answer the question with which the previous chapter ended? In what sense does it make sense, and in what sense does it not make sense, to say that man is gaining increasing power over nature? If the term "nature" is taken to include *human* nature, *then* what would it mean for man to gain increasing power over nature? Suppose the Conditioners say that they are discarding the Tao because they want to produce a better Tao. (Can you think of anyone who actually proposes to do that in our day? Try looking up the word "transhumanism.") What could they mean by producing one? On what grounds could they decide which Tao were better to produce? Would they have *any* grounds on which to decide which is better? If not, where would this leave them -- if they are the creators of motives, then how will they be motivated themselves? At the end of the chapter Lewis makes a remark about "seeing through" things. What does he mean? And how does this remark tie up with what the authors of *The Green Book* thought they were doing? Now that you've finished the book, how do you explain its title?

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| Session 28 | Monday 29 April | <p>This is our discussion day not just for Unit 3, but for the whole course. Come with free-ranging questions – anything goes – anything related in any way, directly or indirectly, to natural law. As always, print out one of your questions twice (one copy to keep, the other to turn in). Again as always, questions for each other are just as good as questions for me.</p> <p>Today you will also turn in your typed whole-semester journal for a grade.</p> <p><i>Remember, no AI for anything.</i></p> <p>The INFORMAL course-instructor survey will be administered at the end of class. There is no sit-down examination for this course.</p> |
| Ranging widely, what do you <i>really</i> want to discuss about anything connected with natural law? | | |