BIOETHICS AND THE LAW SEMINAR

Spring 2004
Course No. LAWJ-284-01

Seminar Meets Th 10:05-12:05

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This seminar investigates legal, ethical, and social problems caused by developments in medicine and the biological sciences. Particular emphasis is placed on moral reasoning and ethical theory. Topics include abortion, reproductive technologies, human stem cell research, death and dying, and reform of the American health care system.

ADMINISTRATIVE DETAILS

Paper Requirement

Successful completion of this seminar will satisfy the upperclass legal writing requirement. Every student will write a paper of at least 25 double-spaced pages. The paper’s subject matter should be within the broad scope of the seminar and will be chosen in consultation with Prof. Quinn. For more on the paper, see attachments to this syllabus.

Paper Deadlines. A statement of the paper topic selected is due in Prof. Quinn’s office on Monday, February 2, 2004. Outlines of papers are due in Prof. Quinn’s office on Friday, February 20, 2003. Solid first drafts of papers are due on Monday, March 15, 2003 (with copies equal to the number of seminar participants + 1 to Prof. Quinn’s office). Final drafts are due in the registrar’s office on Monday, April 26, 2004. No extensions will be granted.

Seminar Participation

1. Every student is expected to have read the assigned materials and to participate actively in the weekly seminar discussions. In addition, beginning with week 10, students will present their own papers—as works in progress—for discussion with other seminar participants.
2. Each student will post three memos on the seminar’s website during the semester. Two memos will comment on the readings assigned for a particular week and the third on another student’s work in progress. An assignment list will be posted on the website after the class roster is finalized.

Contents of Memos to be Posted: These memos should be short (250-300 words) and informal. Each memo should begin with a question that poses a problem about the readings or another student’s paper, seeks answers to something you do not understand, or wonders about a legal or ethical result proposed in the readings or the thesis defended in a student paper. The rest of the memo should describe why you think this question is important, or propose an answer or answers for class discussion. In your narrative, do not simply rehash what the readings or a student paper say. Rather, post some critical or thoughtful words. Please do not post excerpts from other sources. The postings should be all yours. Please do not post your memo by uploading an attachment. Write or cut and paste your memos into the posting window on the web site.

Rules on memo posting: (1) The memos you are assigned to write must be posted by 9:00 AM on the Wednesday before the Thursday seminar meeting taking up your assigned readings or student’s paper. (2) Memos posted late will be treated as not posted at all. (Note well that the web site records the date and the time that each memo is posted!) Failure to post your memos in a timely fashion may have negative consequences on your grade for the course. Though the memos are required, they will not be graded. (3) Requests to allow you to post a memo late, or on another date, or to “make up” a memo you neglected to post on time will always be denied. (4) Trading posting dates with a classmate is fine (Please inform me of the trade and the trading partner before any of your memos are due.)

Grading Policy

Your paper grade, in most instances, will be your course grade. I will not lower grades for classroom performance, except for (1) an unexcused absence, (2) a neglected memo, or (3) a drastically bad performance in presenting one’s paper (and then only a half-step, e.g., B+ to B).

ASSIGNMENTS

The required texts for the seminar are:


**WEEK 1:**  **Introduction: Moral Reasoning in the Medical Context** (January 8)

[administrative details]

Arras 1-41

**WEEK 2:  Abortion** (January 15)

*Case Study:* Prenatal Diagnosis and Selective Abortion

Arras 523-33, 461-92

Furrow 54-82

Supplement 3-4

No Class January 22 — Rescheduled

**WEEK 3:  Mapping the Human Genome** (*RESCHEDULED: Wednesday, January 28, 3:30 - 5:30, Rm TBA*)

*Case Study:* Using Preimplantation Genetic Diagnosis to Save a Sibling

Arras 544-45, 513-23, 553-57, 571-84

Furrow 171-75

Supplement 18

**WEEK 4:  Assisted Reproduction** (January 29)

*Case Study:* What is Wrong with Commodification?

Arras 615-24, 595-614
Furrow 103-26, 143-47
Supplement 5-11, 12-16

**PAPER TOPICS DUE: MONDAY, FEBRUARY 2**

**WEEK 5:**  **Human Cloning and Stem Cell Research** (February 5)

*Case Study:* On Weighing Symbolic Costs in Embryo Research

Arras 668-83, 630-65

Furrow 151-57

Supplement 16-17

**WEEK 6:**  **Forgoing Life-Sustaining Treatment** (February 12)

*Case Study:* The Wendland Case

Arras 348-56, Furrow 312-16

Arras 323-48

Furrow 233-46, 272-91, 296-302

Supplement 26-36

*No Class February 19 — Monday Classes Meet Instead of Thursdays [Faculty Retreat]*

**PAPER OUTLINES DUE: FRIDAY, FEBRUARY 20**

**WEEK 7:**  **Physician Assisted Suicide** (February 26)

*Case Study:* Is the “Philosophers’ Brief” Persuasive?

Arras 382-94, 377-381, 394-400
WEEK 8: Justice and Health Care (March 4)
Case Study: Is Health Care Special?
Arras 155-86
Furrow 384-91

No Class March 11 — Spring Break

Paper First Drafts Due: Monday, March 15

WEEK 9: Ethics and Managed Care (March 18)
Case Study: The HMO Physician’s Duty to Cut Costs
Arras 128-40, 187-201, 210-22

WEEK 10: Seminar Papers (March 25)

WEEK 11: Seminar Papers (April 1)

WEEK 12: Seminar Papers (April 8)

WEEK 13: Seminar Papers (April 15)

WEEK 14: Seminar Papers (April 22)

Paper Final Drafts Due: Monday, April 26
UPPERCLASS LEGAL WRITING REQUIREMENT

Introduction

This seminar provides you with an opportunity to work with a professor and fellow students, both in developing your ideas and in writing your paper. The goal of the seminar is not simply to produce a paper; the seminar should also allow you to practice the processes of idea formulation, research, criticism, writing, and editing that will all tend to make you a better writer.

That said, the seminar paper “must have a length of no less than 6,000 words (excluding footnotes), which is approximately twenty-five (25) typewritten pages using customary margins and spacing,” and should use “legal forms of citation (when appropriate).” Bulletin 2002-2003, p. 40.

The Writing Process

Choosing a Topic

Possible topics areas should be within the scope of the seminar, as outlined by the seminar syllabus and reading assignments. (See list of possible topics following this attachment.) In order to select a topic, you should select one of the topic areas listed in the syllabus and do some background reading. Then, you should do some more in-depth research. Eventually you must settle on some very narrow topic for your paper. The topic must be narrow because the paper is to be an in-depth analysis of some issue or problem; it is not to be a general description of a body of law.

Consult with professor.

Prepare a Thesis Statement on Selected Topic

A thesis statement does not simply announce the topic selected, but suggests a position to be argued in the paper.

Submit topic/thesis statement for approval.

Constructing an Outline

After selecting a topic and having it approved, you should continue your research until you believe that you are ready to start thinking about writing your paper. Formulate your topic precisely, and only then begin to outline. The outline should be very detailed. It should present a well-organized, careful presentation of the ideas you wish to put forth in your paper. A thoughtful outline will greatly assist you in writing your paper.
In preparing your outline, you must be guided by your narrow topic and not the fruits of your research. Do not devote a large amount of time or space to background, historical or general information about your narrow topic. The basic task in writing your paper is to present an analysis of the narrow topic you have selected. There will be many tangential topics that you will have researched and that you will want to mention in your paper; many of these will be interesting and have independent importance. Remember: These topics are not necessarily your topic—only the narrow, selected topic is.

Prepare your outline with your topic in mind; after you have completed it, then plug in your research where and as it is appropriate; discuss only so much of tangential topics, historical materials and incidental research as is necessary to explicate, analyze or illuminate your narrow topic.

Submit outline and schedule appointment with professor.

Writing the First Draft

After you have submitted your outline and I have reviewed it, I will return it to you with comments. We will then have a meeting about your outline and discuss the writing of your first draft. Your first draft should faithfully follow your outline as approved by me. If for some reason you encounter difficulties and need to deviate from your outline, see me.

Important. Your first draft should be a polished product; it may not be a rough draft. Thoughts should be carefully and thoroughly developed, your writing should be thoughtfully executed; spelling, grammar, and the like should be refined; and then the draft should be carefully edited. This is the draft that fellow seminar participants will read!

In writing your papers, you should make clear what your views on your topic are. You should take a stand; do not simply relate what others have said or the positions that they have taken. Of course you must make clear why you believe that your position is the soundest one and why it is to be preferred to alternative positions. In short, be objective but come to a reasoned position and conclusion.

Your target audience is law review readers.

Many people find it helpful to write their “introductions” after they have written the body of their papers. This insures that the introduction does what it is supposed to do and is short. Additionally, if you start by writing the introduction you might tend to get too much into your topic; you might subsequently discover that it is better to reorganize your thoughts (and you will have to rewrite the introduction). The introduction should provide the reader with a road map of your paper: what your topic is and how you plan to develop it in the course of your paper.
Submit first draft (with copies equal to the number of seminar participants + 1) to Prof. Quinn’s office and schedule appointment with professor.

Preparing the Final Draft

I will make comments on your first draft and have a meeting with you about your draft and my comments. Students will then prepare and submit a final draft to registrar’s office.
A SAMPLING OF TOPICS (from actual seminar papers)

Regulation of Biotechnology—Where, Why, and by Whom Should the Lines be Drawn?
Mapping the Slippery Slope: The Potential for a Revised Moral Consensus on Human Cloning
Eugenics: Government Mandated or Individual Initiative, Is there a Difference?

Ethical Basis for the Regulation of In Vitro Fertilization
Prenatal Diagnostic Testing and Selective Abortion
Sex Selection for Nonmedical Reasons Through Sperm Testing: Moral and Ethical Implications
Genetic Information and the Decision to Reproduce
To Be or Not to Be: Who Should Have Dispositional Control Over Preimplantation Embryos?
In Support of Gestational Surrogacy

Duty to Disclose HIV-Positive Status to Sexual Partners
HIV Mandatory Reporting, Contact Tracing, and Notification of At-Risk Contacts
Mandatory HIV Testing on Pregnant Women and Newborns
Attorney-Client Privilege, Clients with HIV/AIDS, and Notification of At-Risk Contacts
A Doctor with AIDS and the Duty to Inform

The Mickey Mantle Story: Legal and Ethics Issues of Organ Transplants
Allocation of Transplantable Organ and the Proposed National List
Against the Criminal Prohibition of Organ Sales

Health Care Rationing and the ADA
Workplace Discrimination, Genetic Information, and the ADA
How Will the Oregon Health Care Plan Fare in the Future?

The Denial of Health Care Benefits to Recent Latin American Illegal Immigrants: Ethical and Policy Dilemmas
Use of Sovereignty to Deny Health Care Benefits to Illegal Aliens

HMO Liability and ERISA
The Tragedy of Low Immunization Rates Among Children
Why Are Insurance Companies Covering Viagra But Not Birth Control?
The Undue Burden Placed on PAS
The Use of Physical Restraints on the Elderly in Long-Term Care Facilities
Two Wrongs Don’t Make a Life: Refuting the ‘Wrongful Death’ Act
The Physician: A Recall for the Old Profession
Higher Brain Death and Orthodox Judaism