

Department of Justice, Law and Society
School of Public Affairs
The American University

Fall 2005

ILS-200-002 & 2002-002G - DEPRIVATION OF LIBERTY

Tuesdays, 11:20PM to 2:00PM

Ward 107

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Course Description

"They say that freedom is a constant struggle," sang the Mississippi "freedom fighters" during the Civil Rights movement in the 1960s. Today, there are less visible struggles for freedom, yet they are no less constant. One concerns the right to be left alone--the liberty of individual autonomy against the restraint of government authoritarianism. Is it constitutional for government to protect citizens from themselves and deprive them of liberty in the process?

Freedom of and from religion were dear to Thomas Jefferson and James Madison. The First Amendment was written, in part, to separate church and state and serves to protect against those who would deprive us of liberty in the name of religion. According to some influential writers over the past 40 years, psychiatry now replaces religion and is used by government to justify paternalism, that is, it is used to deprive citizens of liberty. For example, behaviors formerly considered "good" and "bad" are now labeled as medical signs of "mental health" and "mental illness." Psychiatrists are empowered by the state to restore liberty and autonomy in those persons considered "mentally ill"--even if those labeled sick don't want to be "cured." Thus, do we have what has come to be known as "the therapeutic state" (a term created by Szasz). To what extent (if at all) has institutional psychiatry, that is, psychiatry sanctioned by the state, replaced the religious tyranny Jefferson and Madison worked so hard to protect us against?

Suicide (not "physician-assisted suicide") is considered one of the most controversial and taboo topics for discussion today. Is suicide a symptom of "mental illness?" Does a person have a right to die? If the Constitution guarantees our right to life, liberty and property, doesn't it also guarantee our right to self-destruction and death? How might government authoritarianism evolve to ultimately deprive citizens of individualism and liberty in this situation? Might such policies ultimately lead to a totalitarian society? When, if ever, is such deprivation of liberty constitutionally justified?

In this course we examine the answers to those and related questions. We will discuss and examine the political and ethical issues involved in the right to one's body as property. We will study how the Nazis used medical rhetoric to justify persecution and murder in the name of public health. We will discuss the ways government deprives individuals of liberty in a free society by focusing on the relationship between liberty and responsibility, psychiatry and government, and most important, the origins of totalitarianism according to F.A. Hayek's critique

of socialism and collectivism. Your life is going to change as a result of taking this course.
Lecture and discussion format.

DEPRIVATION OF LIBERTY is one of the courses in Curricular Area 4, Social Institutions and Behavior, in the university's General Education Program. This course is taken as part of a two-course sequence. The foundation courses preceding it include Individuals and Organizations (54.105), Psychology: Understanding Human Behavior (57.105), and Justice in America (73.100). DEPRIVATION OF LIBERTY explores in more depth a topic introduced in those three foundation courses.

Course Objectives

1. To improve the student's legal, philosophical and policy-oriented thinking about liberty in a constitutional democracy.
2. To evaluate the values, costs, and logic of the ways in which classes of people (e.g., drug users and those labeled as mentally ill) are defined as dangerous to themselves and others and deprived of liberty.
3. To explore the social, economic and political origins of totalitarianism and their relationship to authoritarian and paternalistic government policies in the US today.
4. To understand the meaning of "the therapeutic state" and what happens in involuntary treatment for mental illness and drug addiction; the structure and function of the insanity defense; and deprivations of due process via psychiatric testimony.
5. To understand the basic principles of public policy based in classical liberalism and collectivism.
6. To develop skill in debating controversial legal and public policy issues.

Required Texts

- Szasz, T.S. (2002). *Liberation by oppression: A comparative study of slavery and psychiatry*. New Brunswick, NJ: Transaction Publishers.
- Hayek, F.A. (1994). *The road to serfdom*. Chicago: The University of Chicago Press
- Proctor, R.N. (1988). *Racial hygiene: Medicine under the Nazis*. Princeton, N.J.: Princeton University Press
- Szasz, T.S. (2001). *Pharmacocracy: Medicine and politics in America*. Westport, CT: Praeger

Course Requirements and Grades

Mid-term examination	30%
Final examination	35%
Paper	25%
Class participation	10% (includes group presentations)
Total =	100%

Paper

Write an 8 to 10 page paper on any contemporary issue you believe involves the deprivation of liberty. Focus on the relationship between the individual and state. Include principles we've covered in class. State the problem, as you see it, clearly. Differentiate between fact and your opinion. You're encouraged to express your opinion, just make sure you articulate the difference between fact and opinion. Discuss a solution to this problem. Describe possible problems created by your solution. Typed. Double-spaced. In text references like this (Schaler, 2000). References as the books are listed on this syllabus. We will talk more about this in class.

Many readings and notices regarding class will be sent to you by the professor via email. Make sure you are receiving the emails and reading them.

You will be randomly assigned to groups with other students occasionally to present summaries of readings. This will contribute to your grade for participation.

--> Clear and accurate writing will be taken into account in assigning grades, as well as participation in class discussions. Material discussed in class, or in films, and not in any of the readings, may form the basis for questions on the examinations. **One grade reduction for over three class absences.** Students are responsible for anything covered in class during their absence. Readings must be completed by the session to which they are assigned. Additional readings may be assigned during the course. Students are encouraged to form study groups on their own. Grades: A-=90, B+=89, B-=80, C+=79, C-=70, etc. If you're having trouble with this course please make an appointment to talk with me about it.

Academic Integrity Code

"Standards of academic conduct are set forth in the University's Academic Integrity Code. It is expected that all examinations, tests, written papers, and other assignments will be completed according to the standards set forth in this code. By registering, you have acknowledged your awareness of the Academic Integrity Code, and you are obliged to become familiar with your rights and responsibilities as defined by the Code. Violations of the Academic Integrity Code will not be treated lightly, and disciplinary action will be taken should such violations occur. Please see me if you have any questions about the academic violations described in the Code in general or as they relate to particular requirements for this course."

CLASS SCHEDULE

Date	Topic	Reading
August 31	Introduction to the therapeutic state Behavior, explanations, policies, Mental illness and disease	Lecture
September 7	Medicine Scientific Medicine: Disease Clinical Medicine: Diagnosis	Szasz, Phar.1-3
September 14	Lecture on producers and idleness Certifying Medicine	Phar. 4
September 21	Psychiatric Medicine Philosophical Medicine	Phar, 5 Phar. 6
September 28	Political Medicine Psychiatric Slavery: Legal Fiction	Finish Phar. LBO 1-3
October 5	Dred Scott to Tarasoff Psychiatric Slavery As Public Health	
October 12	Dangerousness as disease The Psychiatric Will	
October 19	Outpatient commitment Therapeutic jurisprudence	Finish LBO
October 26	Review	
November 2	Mid-term exam	
	Note: You must take the mid-term exam on this date.	
November 9	Origins of Racial Hygiene "Neutral Racism"	Proctor 1-3
	Political Biology	Proctor 4-6
November 16	Sterilization Law	

	Control of Women	Proctor 7-8
	Anti-Semitism	
November 23	Destruction of Lives	Proctor 9-10
	Organic Vision	
	Medical Resistance	
	Politics of Knowledge	Finish Proctor
November 30	Introduction and The Abandoned Road	Hayek
	The Great Utopia	
	Individualism and Collectivism	
	The "Inevitability" of Planning	
December 7	Planning and Democracy	
	Planning and the Rule of Law	
	Economic Control and Totalitarianism	
	Who, Whom?	
	Security and Freedom	
December 14	Why the Worst Get on Top	Hayek
	The End of Truth	
	The Socialist Roots of Naziism	
	The Totalitarians in Our Midst	
	Material Conditions and Ideal Ends	
	The Prospects of International Order	Finish Hayek
	Conclusion and Review	
	Papers due	

December 21 Final exam 11:20AM to 1:50PM

Note: You must take the final exam on the date assigned. No exceptions.
