

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

Spring 2008

Deprivation of Liberty JLS-200-001H

Mondays & Thursdays, 11:20 AM to 12:35 PM

Ward 201

Faculty: Dr. Jeffrey A. Schaler

schaler@american.edu

<http://www.schaler.net>

Office: #260, Dept. of Justice, Law and Society, Ward Building, 2nd floor

Telephone: 202.885.3667

Office hours: (by appointment, send email)

GENED Teaching Assistant: Ms. Danielle Berg

daniellemarieberg@gmail.com

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 forty-five years, institutional psychiatry now replaces religion and is used by government to justify paternalism, that is, it is used to deprive citizens of liberty. 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 psychiatrist Thomas Szasz in 1963). 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 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 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 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 explore the ways government deprives individuals of liberty in a free society by focusing on the relationship between liberty and responsibility, psychiatry and government, and 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 (for example, drug users and those labeled as mentally ill) are defined as dangerous to themselves and others.
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 in the courts.
5. To understand how policy is formulated, developed and implemented based in classical liberal versus collectivist philosophies.
6. To develop skill in debating controversial legal and public policy issues.

Required Readings

- Szasz, T.S. (2001). *Coercion as cure*. New Brunswick, NJ: Transaction Publishers.
- 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

Course Requirements and Grades

| | |
|---------------------|------|
| Paper | 35% |
| Final exam | 35% |
| Class participation | 30% |
| Total = | 100% |

Paper: Double-spaced typed paper dealing with any way that psychiatry and the ideas of mental illness and mental health are used to deprive people of liberty. You base your paper primarily on the material in the first two books by Szasz, and add research from other sources as you deem appropriate. You can disagree or agree with Szasz, it doesn't matter. Pick a topic and explore it. This is a research paper. You must have the following sections clearly indicated with these headings: Introduction; Operational Terms and Definitions (if needed); Literature Review; Discussion; Summary/Conclusion. Do not put your opinion in the literature review. Your opinion goes in the second half of the Discussion section, plus, Summary/Conclusion. You must use APA (American Psychological Association) format. Make sure your in-text citations are correctly cited as per APA, and your references in the end are EXACTLY APA format. No paper length—you decide—however, you must use the section headings. Further instructions will be handed out or talked about in class.

NOTE: Your paper covers the readings in the first half of the course – again, you bring in outside references as you like. Your comprehension of the readings for the second half of the course is assessed through the final exam. The final exam covers the second two books, plus other readings, films, guest lectures that occur during the second half of the semester. There is no length set for the

paper. You decide what is appropriate. You must have the sections listed as indicated. Meet with Professor Schaler to discuss your topic of interest. You will discuss your paper in class. You hand your paper in on the date listed below.

Please keep the following in mind when you write your paper:

- Your paragraphs must neither be too short nor too long. Each paragraph should be able to stand alone.
- Make sure you have smooth and logical transition from sentence to sentence and from paragraph to paragraph.
- Make sure you keep people, possession, and time parallel. For example, if you begin a sentence speaking in the plural and present tense, don't follow up in the same sentence using the singular and past tense.
- Make sure each sentence is a complete sentence.
- Make sure you differentiate between factual material and your opinion. Your opinion is fine, however, do not express your opinion as if it is fact.
- If you cite a source within the text, make sure you use APA format. If you don't know what APA format is, go to the library or purchase the APA Manual of Style. In-text citation is like this (Smith, 1969), and only like that. Not, (Smith, p. 46). It's always author's last name, year of publication, and if necessary, the page numbers, like this (Smith, 1969: pp. 12-15).
- Do not use footnotes.
- Do use www.dictionary.com and the link to the Oxford English Dictionary provided on Blackboard.
- Do not cite material in the reference section that you did not cite in-text. Do not cite material in-text that you do not cite in the reference section. The reference section is on its own page.
- Make sure your name is on the first page. Give your paper a short and descriptive title. Make sure each page is numbered, centered, at the bottom of the page.
- Do not quote more than two lines of material. Paraphrase material in your own words, then reference it from the source it came from.
- Keep your writing and language formal, no colloquialisms.
- Use the following headings: Introduction (make sure you state the purpose of your paper here); Operational terms and definitions (list and define any that may be relevant and unfamiliar to a reader); Literature review (list what other people have found); Discussion (clearly state your opinion, don't present it as fact); Conclusion: (Summarize, list limitations and possible biases); References: APA style. Important

Final examination: The final examination will consist of multiple choice and/or essay questions focused on the material we study in the second two books and anything else we deal with after you turn in your paper. You will be given the opportunity to express your own point of view on the many controversial issues we addressed.

- Group presentations: You will occasionally be assigned to a group and present on various assigned readings periodically.

Class participation (CP): Further instructions or clarification for the assignment below will be presented in class. We start next week. Two posts per week. This must be posted in the Blackboard discussion board.

Again, each week you post two CP assignments on Blackboard discussion board: Title each the following way and put your name as listed on the roster in the subject heading:

CP #1: You post a news item you've found on the Internet that is related to anything we've discussed in class or in the readings. You summarize the article briefly, put the url there so that fellow students can read the article you found, then you give your opinion of the article. Thus, CP #1 your name in the title
 Title of article:
 URL of article:
 Opinion of article/issue

CP #2: You post a response to the opinion written by someone else in class—their opinion in any post of theirs. Please stay polite and respectful. *Argumentum ad rem, no argumentum ad hominem.* Thus, CP #2, your name. Next line: Jones responds to Smith's posting of . . . (and put date of his/her post or use "reply to.")

Each week, two posts for CP credit. Remember, thirty percent of your grade.

Note: Clear and accurate writing—including accurate spelling on exams and papers—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. **Exams must be taken on the dates assigned. One grade reduction for over three class absences.** No fault absence policy: This means no note is required for your absence, however, the penalty applies for over three absences, regardless of reason. Save the three you have without penalty in case you get sick or have a family emergency. 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. **Check your email for class readings, announcements, etc.** Check Blackboard for announcements. Make appointment by email to come in to talk to Professor Schaler about anything. Get to know the professor so the professor gets to know you.

Teaching Assistant: Danielle Berg is my teaching assistant for this course. Contact her by email for any tutoring or assistance. She is very nice and has taken quite a few courses with me. She knows what I teach very well. She was awarded her teaching assistantship by the General Education Program department because she is an outstanding student. daniellemarieberg@gmail.com

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 |
|-------------|---|-----------------------|
| Jan 14 | Introduction: Three Step Model | Lecture |
| Jan 17 | Liberty and Responsibility: The role of institutional psychiatry | CasC Preface Intro |
| Jan 21 | MLKJr Holiday, no class | CasC Chap 1 |
| Jan 24 | Mental Hospitalization as | Chap 2 & 3 |

| | | |
|--|--|----------------------------|
| | Deprivation of Liberty | |
| | Terror Therapy | |
| | Moral Treatment | |
| Jan 28 | Dauerschlaf | Chap 4 & 5 & 6 |
| | Iatrogenic epilepsy | |
| | Lobotomy | |
| Jan 31 | Psychopharmacology I: Psychiatric Drugs | Chap 7 & 8 |
| | Psychopharmacology II: Psychedelic Drugs | Finish CasC |
| February 4 | Psychiatric Slavery: Legal Fiction | Szasz, LBO 1-3 |
| | Dred Scott to Tarasoff | |
| | Psychiatric Slavery As Public Health | |
| February 7 | Dangerousness as disease | LBO |
| | The Psychiatric Will | |
| February 11 | Outpatient commitment | LBO |
| | Therapeutic jurisprudence | Finish LBO |
| Note: Your paper is based on material in the readings above. The final exam is based on material in the readings below. | | |
| February 14 | Origins of Racial Hygiene | Proctor 1-3 |
| | "Neutral Racism" | |
| | Political Biology | Proctor 4-6 |
| February 18 | Sterilization Law | |
| | Control of Women | Proctor 7-8 |
| February 21 | Anti-Semitism | |
| February 25 | Organic Vision | |
| February 28 | Medical Resistance | |
| March 3 | Politics of Knowledge | Finish Proctor |
| March 6 | Talk about your papers | |
| March 10 | Turn in your papers; talk about your papers | |
| | Spring break | |
| March 13 | Talk about your papers | |
| March 17 | Introduction and The Abandoned Road | Hayek |
| | The Great Utopia | |
| | Individualism and Collectivism | |
| March 20 | The "Inevitability" of Planning | |
| March 24 | Planning and Democracy | |
| March 27 | Planning and the Rule of Law | |
| March 31 | Planning and the Rule of Law | |
| April 3 | Economic Control and Totalitarianism | |
| April 7 | Who, Whom? | |
| April 10 | Security and Freedom | |
| April 14 | Why the Worst Get on Top | |
| April 14 | The End of Truth | |
| April 17 | The Socialist Roots of Naziism | |
| April 21 | The Totalitarians in Our Midst | |
| April 24 | Material Conditions and Ideal Ends | |
| | The Prospects of International Order | Finish Hayek |
| April 28 | Conclusion and Review | |
| May 5 | Final Exam | 11:20 AM to 1:50 PM |

Note: Try to get the readings done by the dates shown. We may spend more time on one chapter than another. The reading is your responsibility. We will have discussions about points related to the readings, to illustrate ideas in the readings, however, we may not necessarily discuss in class every part of the readings. You will share in presenting parts of Proctor, assigned in class. The final exam has to be on taken on the date assigned, based on the date assigned by the university registrar's office.