

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

Spring 2007

ILS-596.001 – Psychiatry, Psychology, and Law

Tuesdays, 11:20 AM to 1:50 PM

Ward 107

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Office hours: (by appointment)

Course Description

Mental illness. The words suggest that the mind can be diseased, just as the brain can be diseased. Psychiatrists, psychologists, family members of the “mentally ill,” lawyers, jurists, policymakers, public health experts, scholars and others frequently assert that mental illness is as real as the world is round. Denying, even questioning, the existence of mental illness is tantamount to denying the existence of God among the most devout theists. Questioning psychiatric faith can mean trouble.

Most people accept as fact not only that mental illness is real, but that it is also treatable. Undergraduate and graduate students alike are frequently taught that mental illness is caused by a “chemical imbalance in the brain,” specific genes or their mutations, and that it is characterized by abnormal brain structure and function, detectable through CT and PET scans. Those scholars—often scholars of law—who recognize that there are no signs of mental illness, assert that mental illness is best understood as irrational thinking, speech, claims, and most important, abnormal or irrational behavior. One thing is certain among those who believe that mental illness is real: They often consider those who disagree with them—that is, those who say that mental illness is a myth, a metaphor, a strategy, an invention—are ignorant, wrong, unscientific, evil, dangerous, bad, and lacking in compassion (among other flattering characteristics). The stakes are high when it comes to believing in and questioning the existence of mental illness and its treatment.

Professors who question the claims made by psychiatric authorities, those who teach their students to think critically about mental illness and its consequences, often run serious risks to their career in doing so, despite alleged protections of academic freedom: They may not be hired to teach at a college or university because they questioned psychiatric dogma. They may be fired or not have their teaching contracts renewed because they taught their students to question the existence of mental illness. They may be ostracized, ridiculed and shunned by their colleagues. Many researchers know they run the risk of not having their research funded if they dared to question the existence of mental illness. There are many stakeholders when it comes to believing in “mental illness.”

These are serious matters, especially within the academe, where critical and independent thinking is allegedly valued, if not encouraged. What is the evidence to support such accusations? The fact that few students have ever been introduced to the kind of thinking you will be encouraged to cultivate in this course. The fact that mental illness and its various and diverse offspring are not listed in standard textbooks on pathology. The fact that as far as pathologists are concerned, mental illness does not meet the nosological criteria for disease classification.

This is an advanced course. Students who have been introduced to the controversies concerning mental illness and its treatment will have an opportunity to further and fine-tune their comprehension of issues related to the idea of mental illness, regardless of which side they are on in the debate and controversy.

We will examine, through lecture, reading, and discussion, the basis on which scholars argue that mental illness is a metaphor, not a literal disease—and we will examine, in detail, the diverse consequences for legal, clinical, social and public policy when it comes to believing in or rejecting the existence of mental illness. Students will become thoroughly versed in the criticism by scholars directed at those who question the existence of mental illness. Topics include: empirical and analytic reasoning on both sides of the debate; identical twin studies; deconstructing operational terms and definitions; the evaluation of biological, psychological, and sociocultural explanations for mental illness; the relationship between description and explanation for mental illness, and the relationship between explanation and policy; determinations of competency to stand trial; the insanity defense; involuntary commitment and due process; institutional versus consensual/contractual psychiatry; ethics in psychotherapy; the right to suicide, suicide prevention, and physician-assisted suicide; deinstitutionalization; the history and consequences of various labels for abnormal behavior; Popper's "falsification" of scientific theory; the effect of pharmacological agents, electro-convulsive therapy, and "psychosurgery" – and more.

You will learn *how* to think about these and related ideas, and their implications for law, liberty, and justice—not *what* to think.

Course Objectives

- To comprehend diverse descriptions, definitions, and meanings of "mental illness"
- To deconstruct terms such as mental illness, abnormal behavior, schizophrenia, bi-polar disorder, depression, personality disorder, and anxiety-based disorders
- To understand the various explanations offered for why abnormal behavior and "mental illness" exists—or what is meant by "mental illness"—including theological, biological, psychological, and sociocultural explanations
- To understand the relationship between various explanations for mental illness (and mental health) and legal, clinical, social and public policy
- To understand the relationship between ideas concerning mental illness/insanity and due process of law
- To understand why a theory must be falsifiable in order to be scientific
- To understand the relationship between medicine and the state, the therapeutic state, its structure and function, and how it has come to replace the theocratic state
- To evaluate the criticism of those who question the existence of mental illness and the treatment of those labeled "mentally ill"
- To understand philosophical perspectives on the relationship between mind and brain
- To understand the difference between scientific and clinical medicine, and its relation to law
- To understand existential perspectives on what is called mental illness
- To understand the relationship between liberty and responsibility

Required Texts

- Edwards, R.B. (Ed.). (1997). *Ethics of psychiatry: Insanity, rational autonomy, and mental health care*. Amherst, NY: Prometheus Books. ISBN: 1573921130
- McHugh, P.R. and Slayney, P.R. (1998). *The Perspectives of Psychiatry (Johns Hopkins Series in Contemporary Medicine and Public Health)*. Baltimore: Johns Hopkins University Press. ISBN: 0801860466

- Menninger, K. (1977). *The crime of punishment*. New York: Penguin. ISBN: 0140044884
Note: This book is no longer published. However, you can purchase it used VERY CHEAP via Amazon.com and elsewhere. If you cannot locate and purchase a used copy, I will distribute a Xerox copy of the book. I strongly urge you to purchase a used copy over the Xerox copy. Some are selling on Amazon.com for one cent.
- Szasz, T.S. (1989). *Law, liberty, and psychiatry: An inquiry into the social uses of mental health practices*. Syracuse University Press; Reprint edition (October 1, 1989) ISBN: 0815602421
Reprint edition.
- Szasz, T.S. (1997) *Insanity: The idea and its consequences*. Syracuse, N.Y.: Syracuse University Press. Reprint edition. (Buy this together with *Cruel Compassion* below at Amazon for a better price.) ISBN: 0815604602
- Szasz, T.S. (1998). *Cruel compassion: Psychiatric control of society's unwanted*. Syracuse, NY: Syracuse University Press. ISBN: 0815605102 Reprint edition. (Buy this together with *Insanity* above at Amazon for a better price.)
- Plus, articles, chapters, and other readings handed out by the professor.

Course Requirements and Grades

Mid-term exam	25 %
Paper	30 %
Final exam	35 %
<u>Class participation</u>	<u>10 %</u>
Total = 100%	

Paper: A maximum ten-page paper on any aspect of psychiatry, psychology and the law of your choice. APA format. You are encouraged to meet with Professor Schaler to discuss and plan your paper. Writing guidelines will be discussed in class.

CLASS SCHEDULE

Date	Topic	Reading
Jan 16	Introduction: Schaler's Three-Step Model (of policy Analysis); synthetic and analytic truth; basic arguments and counter-arguments; what is "mental illness" and why is it important to study? What do we do about "it"? Why weren't you ever taught about this before? Who is Thomas Szasz and why do people say such nasty things about him? Why do Szasz and Schaler reject the label "anti-psychiatry"? Involuntary commitment and the insanity defense; sin, crime, and sickness; masturbation and homosexuality as popular diseases of the 19 th and 20 th century; what is a disease, what is a behavior, and why does it matter? What is the mind and what is its relation to the brain? Why do people get so upset about a course like this? And more . . .	Lecture

Jan 23	Issues and their authors: Read the intros and first chapters of <i>Law, Liberty and Psychiatry</i> , <i>Insanity</i> , <i>Szasz Under Fire</i> (intro by Schaler, autobiography by Szasz); Edwards book Part I - Szasz, Moore, Edwards; Alcoholism and Free Will by Robert Wright; Homosexuality by Friedman and Downey (all in the Edwards book); Assessment & Explanation, Chaps 1, 2, 3 of McHugh And Slavney	Lecture and discuss readings
Jan 30	The right to refuse treatment by Winick; Duty to protect by Applebaum; Controversial behavior Control therapies – Intro by Edwards 4; Psychosurgery by Isaac and Armit; Ethical issues in forensic psychiatry – Intro by Edwards 6); APA view on Insanity; Nature of competency by McGarry; Ethical issues in deinstitutionalization – Intro by Edwards 7; Crazy in the streets by Applebaum; Make sure you read each intro by Edwards to each section; additional Readings	Edwards book
Feb 6	Szasz	<i>Insanity</i>
Feb 13	Szasz	<i>Insanity</i>
Feb 20	Assigned reading	Lecture
Feb 27	Review: Putting it all together	
March 6	Mid-term examination	
March 13	Spring break – Read Menninger	
March 20	Szasz	<i>Cruel Compassion</i>
March 27	Szasz	<i>Cruel Compassion</i>
April 3	Szasz	<i>Law, Liberty, Psych.</i>
April 10	Szasz	<i>Law, Liberty, Psych.</i>
April 17	<i>The perspectives of psychiatry</i>	McHugh & Slavney
April 24	<i>The perspectives of psychiatry</i> Last class	McHugh & Slavney

May 1 Study day, no class

May 8 Final exam 11:20 A.M. to 2:00 P.M

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. **You are encouraged to have at least one meeting with Professor Schaler to go over your work in this course.** Make appointments early. Don't wait until the end of the semester. **Check your email for class readings, announcements, etc.** Check Blackboard for announcements.

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."
