

PHI 397/PSC 375.001: Philosophy of Law

Instructor: Christopher Bousquet, crbousqu@syr.edu

Time: Tuesday/Thursday 9:30-10:50 am

Office Hours: 3-4 pm Wednesdays on Zoom and by appointment

Course Goals:

- The philosophy of law seeks to understand the nature of law and its philosophical justifications. At the start of the course, we will try to answer a number of surprisingly vexing questions about the nature of law: what makes something law? How do we determine what the law is in a given case? What *should* the law be in various domains, and what does this tell us (if anything) about what the law *is*? We will then explore a number of pressing applied issues in law. Why do we have a right to free expression and how far does it extend? Why and how should we punish those who've violated the law? You will become an engaged interlocutor in these debates and others, learning to apply the philosophical method to distinguish between better and worse theories, analyze arguments, and formulate your own arguments.

Grading:

Participation: 10%

- This class will be heavily discussion-oriented. I'll take attendance and expect students to attend every session (barring excused absences) and contribute to conversation by asking/answering questions, making comments, and talking in small groups. This is a critical (perhaps the most critical) part of what it is to "do philosophy."

Reading Quizzes: 10%

- I will give occasional in-class pop quizzes on the day's readings (5 total). These will be short and easy if you've done the reading. If you miss class the day of a quiz and have a valid excuse, I'll give you a pop quiz on a later day. If you miss class without a valid excuse, you'll receive a 0 on the quiz.

One 1-page argument reconstruction: 10%, due Friday, September 20

- In this assignment, I'll ask you to summarize an argument from an article we've read as clearly and concisely as possible. I'll post instructions as to which argument I'd like you to explain the week prior to the due date.

One 2-page short writing assignment: 15%, due Friday, November 8

- This short essay asks you to answer a question related to the course content, which may involve taking a side on a debate, criticizing an argument, or applying a theory to a contemporary topic. I'll post the questions two weeks before the due date.

Two short video assignments: 25% total, due Friday, September 6 and Friday, October 11

- These assignments ask you to record a short video (5-7 minutes) responding to a question that I've posted. You may use notes for these, but you should not merely read from a script.

One Essay Outline: 10% due Friday, November 22

- Your outline will include a clear statement of your thesis, an explanation of at least three points you will make in its favor, and the identification of one objection an opponent might offer and how you will respond to this objection.

1 Essay (4-5 pages): 20% due Monday, December 16

- Your essay will reflect your considered opinion on some issue we've covered in class, arguing in favor or against some view. You will offer a clear thesis statement and justify it with arguments that draw upon evidence we've encountered in class or that you've found on your own. You will also consider and respond to at least one argument against your view. The idea is to engage with what you have read and develop your own take.

Important Dates:

- **Friday, September 6:** First video assignment due
- **Friday, September 20:** Argument reconstruction due
- **Friday, October 11:** Second video assignment due
- **Friday, November 1:** Short writing assignment due
- **Friday, November 22:** Essay outline due
- **Monday, December 16:** Final Essay due

Course Policies:**Late Assignments:**

I will accept late work, but I will take off 5 points for each day an assignment is late. If you need an extension for an assignment, please let me know 72 hours before the assignment is due and we can try to work something out.

Academic Integrity:

Work for this class must be just *your own*, produced by you, not another student, an AI, a parent, a dog, a cat, a deity, or anything else. You can find SU's academic integrity policy [here](#) and I will take it very seriously. I'll employ plagiarism and AI detection tools for out-of-class assignments. If you violate this policy, I will have to contact the Office of Academic Integrity. Depending on the severity of the offense, consequences can range from a zero on an assignment to removal from and failure in the course. If you're stressing for time or confused about an assignment, reach out to me instead!

AI Statement:

Using artificial intelligence to complete any assignments is prohibited because developing your own understanding of the material is a key goal of this course. AI detection tools including Turnitin's built-in AI writing indicator, may be used as one factor in evaluating potential inappropriate use of AI in this course.

Student Resources:

Center for Learning and Student Success (CLASS)

Free, small-group and one-on-one tutoring and workshops.

Address: 014 Bird Library

Phone: 315.443.2005

Writing Center

Face-to-face appointments as well as online sessions to help students with writing projects.

Address: 101 H.B. Crouse Hall

Phone: 315.443.5289

Online Appointments: <https://syr.mywconline.com/>

Counseling Center

Variety of services to help with mental health, substance abuse, sexual assault/relationship violence and more.

Address: Barnes Center at The Arch, 150 Sims Drive

Phone: 315.443.8000

Tentative Reading Schedule:**What is law?**

Week 1: Intro and Positivism

- Tuesday, August 27: *Regina v. Dudley and Stephens* (selections).
- Thursday, August 29: Hart, "Positivism and the Separation of Law and Morals" sections III and IV

Week 2: No Class, Reading on Anti-positivism

- Tuesday, September 3: No Class, Chris at conference
- Thursday, September 5: No Class, Chris at conference
- ****Still read Fuller, IV-VII for assignment****

Friday, September 6: Video Assignment 1 due

Week 3: Dworkin

- Tuesday, September 10: Ronald Dworkin, "The Model of Rules" sections I-IV
- Thursday, September 12: *Riggs v. Palmer* (selections)

Legal Interpretation

Week 4: Constitutional Interpretation, Part 1

- Tuesday, September 17: Scalia, *A Matter of Interpretation*, pp. 14-25, 37-47
- Thursday, September 19: *Dobbs v. Jackson Women's Health Organization* (excerpts)

Friday, September 20: One-page argument reconstruction due before Midnight

Week 5: Constitutional Interpretation, Part 2

- Tuesday, September 24: Dworkin response in *A Matter of Interpretation*
- Thursday, September 26: *Students for Fair Admission v. Harvard* (excerpts)

Free Expression

Week 6: Foundations of the Right to Free Expression

- Tuesday, October 1: Meiklejohn, *Free Speech and Its Relation to Self-Government* (selections)
- Thursday, October 3: Messina, "Freedom of Expression and the Liberalism of Fear"

Week 7: Against the Right to Free Expression

- Tuesday, October 8: Leiter, "The Case Against Free Speech" pp. 407-429
- Thursday, October 10: *Schenck v. United States* (excerpts) and Murray and Syal, "Two men jailed for social media posts that stirred up far-right violence"

Friday, October 11: Video Assignment 2 due

Week 8: Hate Speech

- Tuesday, October 15: No Class, Fall Break
- Thursday, October 17: Charles Lawrence III, "If He Hollers Let Him Go" (selections)

Week 9: Campus Protests

- Tuesday, October 22: David French, "Colleges Have Gone off the Deep End. There Is a Way Out"
- Thursday, October 24: Nathan Robinson, "Palestine Protests are a Test of Whether This is a Free Country" and Matter of Opinion Podcast: "Untangling the Mess of Campus Protests"

Crime and Punishment

Week 10: Individualized Evidence

- Tuesday, October 29: Judith Jarvis Thomson, "Liability and Individualized Evidence"
- Thursday, October 31: *Sindell v. Abbott Laboratories* (selections)

Friday, November 1: 2-page short writing assignment due

Week 11: Retributivism

- Tuesday, November 5: Michael S. Moore, "Justifying Retributivism" (pt. 1)
- Thursday, November 7: Moore pt. 2 and Mitchell Berman, "Modest Retributivism"

Week 12: Restorative Justice

- Tuesday, November 12: Heather Strang and Lawrence W. Sherman, "Repairing Harm: Victims and Restorative Justice"
- Thursday, November 14: No Class, Chris at Conference

Week 13: Inequality and Responsibility

- Tuesday, November 19: Tommie Shelby, “Justice, Deviance, and the Dark Ghetto”
- Thursday, November 21: Christopher Lewis “Inequality, Incentives, Criminality, and Blame”

Friday, November 22: Final Essay Outline Due

****Thanksgiving Break, no class November 26, 28****

Week 14: Race and Criminal Punishment

- Tuesday, December 3: Michelle Alexander, *The New Jim Crow* (excerpts)
- Thursday, December 5: John Pfaff, *Locked In* (excerpts)

Week 15: Wrap-up

- Tuesday, December 10: Last class, no reading

Monday, December 16: 4-5 page paper due

N.B. Readings and assignments are subject to change at the instructors’ discretion.
