

PHILOSOPHY & LAW

SEMESTER

Days, Time, Room

INSTRUCTOR

Jonathan Spelman

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COURSE DESCRIPTION

This course introduces students to some philosophical questions that arise within the United States legal system and identifies some potential answers to those questions. For example, we investigate the relationship between the law and morality, how to interpret the law, what sorts of speech should be protected, what counts as equal protection, who we should punish, and why we should punish them. Along the way, this course helps students develop the philosophical skills they need to answer these questions. In particular, it helps students to construct and evaluate arguments, devise thought experiments and counterexamples, and develop intellectual courage, empathy, and humility.

OFFICE HOURS

I will hold office hours on Mondays and Wednesdays from 1:00-2:50 in Hellems 15. I will also be available by appointment.

COURSE TEXTS

The course readings will come from the required text listed below and the course pack.

REQUIRED TEXTS

- *PPL*: Adams, David M. *Philosophical Problems in the Law*. 5th ed. Boston: Wadsworth, 2013.
- *CP*: Course Pack

TECHNOLOGY POLICY

Studies show that students who write their notes retain more information than those who type their notes (see, for example, <http://www.npr.org/2016/04/17/474525392/attention-students-put-your-laptops-away>). In light of that, I ask that you not use your laptops during class. Of course, if you have a compelling reason for using your laptop during class, please let me know. I am willing to make exceptions to this rule in certain cases.

GRADES

Grades will be assigned in accordance with the university's uniform grading policy. "A" grades are exceptional and are reserved for those students who demonstrate both a comprehensive understanding of the material and competence with all the philosophical skills we work on over the course of the semester. "B-/C+" grades are average.

GRADED ELEMENTS

CLASS PREPARATION AND ATTENDANCE

You are expected to prepare for each class period by reading and flagging the assigned text and reflecting on its content. You are also expected to attend class regularly. After your fifth absence, each additional absence will result in a 2.5% reduction in your final grade.

PARTICIPATION

You are expected to be an active participant in all small group activities and discussions and to contribute regularly to large group discussions. This is good, not only for you, but also for your classmates and me. We will all benefit from your contributions. It is particularly important that you participate in peer review and homework activities, that you be ready to present any material you are asked to prepare, and that you participate in two large-group debates. Your class participation grade will account for 10% of your final grade.

JOURNAL

You are expected to keep a journal in which you'll write down your reflections on the cases we discuss. Each journal entry should be at least 150 words. It should be a clear and thoughtful, and it should answer the prompt for that case. Your journal entries will typically be due the Friday after we discuss the case. Your journal grade accounts for 15% of your final grade.

HOMEWORK ASSIGNMENTS

Homework will be assigned on Fridays and will be due on Mondays. Although you should complete each homework assignment on your own, you will be able to rework #1, 2, 4, 5, 7, and 8 in small groups of your peers. Of these six grades, your lowest grade will be dropped. Each of the remaining grades will account for 2% of your final grade. You will not be able to rework homework assignments #3, 6, or 9. Each of these homework assignments will account for 5% of your final grade. Combined, your homework assignments will account for 25% of your final grade.

MISCELLANEOUS ASSIGNMENTS

You will be asked to complete a number of miscellaneous assignments throughout the semester. These will receive either a passing or a failing grade. Assignments that receive a failing grade can be redone. Your miscellaneous assignments will account for 10% of your final grade.

PAPERS

During the semester, you will write two 3-4 page (900-1200 word) papers. We will talk more about the paper requirements during the writing workshop. A hard copy of your first paper will be due in class on Monday of Week 8. An electronic copy of your second paper will be due by 11:59 pm on the day of your final exam. Each paper will account for 20% of your final grade.

<u>GRADED ELEMENT</u>	<u>%</u>
Participation	10
Journal	15
Homework	25
Miscellaneous Assignments	10
<u>Papers</u>	<u>40</u>
Total	100

ASSIGNED READINGS

Week 1 – Introduction to Philosophy & Law

Mon Blanda, “[The Other Side Is Not Dumb](#)”

Wed CP: How to Read Philosophy

Redo summary of passage from Mill’s *On Liberty*

Fri CP: Pojman and Vaughn, excerpt from *Philosophy: The Quest for Truth*

Week 2 – The Nature of Law

Mon CP: Reconstructing and Evaluating Arguments

Homework #1

Wed PPL: *Riggs et al. v. Palmer* (1889), pp. 184-187

Fri CP: Thought Experiments and Counterexamples

Devise counterexamples to the main arguments in *Riggs v. Palmer*

Week 3 – Legal Interpretation

Mon **No Class (Labor Day/Martin Luther King, Jr. Day)**

Wed **Homework #2**

Fri PPL: *Church of the Holy Trinity v. U.S.* (1892), pp. 211-214

PPL: *Smith v. U.S.* (1993), pp. 208-211

Present *Church of the Holy Trinity v. U.S.* or *Smith v. U.S.*

Week 4 – Legal Interpretation

Mon **Homework #3**

PPL: Scalia, “The Role of U.S. Federal Courts in Interpreting the Constitution,” pp. 214-219

Wed PPL: Dworkin, “Comment on Scalia,” pp. 219-224

Fri CP: Scalia, “Response to Dworkin,” pp. 166-169

Week 5 – Free Speech

Mon CP: How to Write a Précis

PPL: *Albert Snyder, Petitioner v. Fred W. Phelps, Sr., et al.* (2011), pp. 329-334

Précis of *Snyder v. Phelps*

Wed **Redo précis of *Snyder v. Phelps***

Fri **Devise counterexamples to the main arguments in *Snyder v. Phelps***

Week 6 – Writing Workshop

Mon **Quiz on *Snyder v. Phelps***

Wed Writing Workshop

Fri Writing Workshop

Week 7 – Writing Workshop

Mon Writing Workshop

Wed Writing Workshop

Fri Writing Workshop

Week 8 – Affirmative Action

Mon **Paper #1**

PPL: *Barbara Grutter v. Lee Bollinger, et al.* (2003), pp. 374-383

Wed PPL: Nagel, “A Defense of Affirmative Action,” pp. 383-386

Fri PPL: Steele, “Affirmative Action,” pp. 386-391

Week 9 – The Reasonable Person Standard

Mon **Homework #4**

Wed CP: *State v. Rusk* (1981), pp. 327-331

Fri CP: Scheppele, “The Reasonable Woman,” pp. 322-327

Week 10 – Justification and Excuse

Mon **Homework #5**

Wed PPL: *State v. Leidholm* (1983), pp. 506-508

Fri PPL: Rosen, “The Battered Woman’s Defense,” pp. 508-515

Week 11 – Theories of Punishment

Mon **Homework #6**

PPL: *Lockyer v. Andrade* (2003), pp. 531-534

Wed Barry-Jester, Casselman, and Goldstein, “[Should Prison Sentences Be Based On Crimes That Haven’t Been Committed Yet?](#)”

Fri PPL: Moore, “The Argument for Retributivism,” pp. 558-562

Week 12 – Capital Punishment

Mon **Homework #7**

Wed PPL: *Gregg v. Georgia* (1976), pp. 623-627

More Perfect, Episode 1: [Cruel and Unusual](#)

Fri PPL: Van den Haag, “The Death Penalty Once More,” pp. 578-584

Week 13 – Debates

Mon **Homework #8**

Wed **Debate #1: Theories of Punishment**

Fri **Debate #1: Capital Punishment**

Week 14 – The Duty to Rescue

Mon **Homework #9**

PPL: *McFall v. Shimp* (1978), pp. 703-704

Wed PPL: Macaulay, “Against a Legal Duty to Rescue,” pp. 704-706

Fri PPL: Weinrib, “The Case for a Duty to Rescue,” pp. 706-713

Week 15 – Assorted Topics (Subject to Revision)

Mon Corvino, “[“Bake Me a Cake”: Three Paths for Balancing Liberty and Equality](#)”

More Perfect, Episode 4: [Imperfect Plaintiffs](#)

Wed PPL: *Goldschmidt v. Florida* (1986), pp. 604-606

Criminal, Episode 39: [Either/Or](#)

Fri PPL: *Michael H. v. Gerald D.* (1989), pp. 414-418

More Perfect, Episode 3: [More Perfect presents: Adoptive Couple v. Baby Girl](#)

Final Exam: Debate #2 and Paper #2