

PHI234 / POL312

PHILOSOPHY OF LAW / JURISPRUDENCE

time M&W 12:30-1:45

instructor **Marcello Di Bello**

venue Carman 349

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office hrs M&W 2-3, Carman 365



the Twelve Tables



section of Hammurabi's code

materials

scholarly articles and essays, court opinions, a play, a philosophical dialogue, movie clips, powerpoint slides and homework assignments

website

course materials are available on the course website, so you should check it regularly

www.marcellodibello.com/PHI234

policy for late assignments

late assignments are **not** accepted

course topics

part 1 - law and interpretation - what makes a written text a piece of law? are laws human conventions? how should judges decide difficult cases?

part 2 - law and morality - why should we obey the law? should we obey immoral laws?

part 3 - freedom of speech - what is freedom of speech? can it be restricted for reasons of national security and other more pressing exigencies?

part 4 - wrongful convictions - how many errors does the criminal justice system makes? what is a tolerable margin of error? how should errors be managed?

requirements

- ✦ complete *five* graded assignments [90% of the grade]
- ✦ obtain a 'pass' grade on *four* pass/fail assignments
- ✦ attend class and take *one* surprise test [10% of the grade]

graded assignments

- #1. reading laws [10%]
due Feb 8
- #2. opinion analysis [20%]
due Feb 29
- #3. reading phil. of law [20%]
due Mar 21
- #4. paper draft [10%]
due Apr 18
- #5. final paper [30%]
due May 23

pass/fail assignments

the pass/fail assignments will only be given a 'pass' or 'fail' grade

NB – the pass/fail assignments do not affect your letter grade, but they are required for you to get credit in this course

attendance & test

you are expected to attend class, do the reading and participate

there will be *one* surprise test, counting for 10% of your grade

schedule

PART 1 - LAW AND INTERPRETATION

week 1: Mon Feb 1 & Feb 3

We will begin the course with a few puzzles and stories that should challenge your intuitive sense of right and wrong

NY Times, Motivational's Speaker Killer Convicted

week 2: Mon Feb 8 & Wed Feb 10

We will ask what makes written texts laws

Hammurabi's Code and NY Penal Code

week 3: Wed Feb 17 — **No class Mon Feb 15**

When judges are asked to decide difficult cases, what should guide their decisions?

Tennessee Valley Authority v. Hill (1978)

DeBoer v. Snyder (6th Circuit, 2014)

week 4: Mon Feb 22 & Wed Feb 24

Same topic as last week

assignment #1
due Feb 8

pass/fail assignment
due Feb 17

PART 2 - LAW AND MORALITY

week 5: Mon Feb 29 & Wed Mar 2

If the laws of your country forced you to do something you considered immoral, would you have the right to disobey?

Sophocles, Antigone

week 6: Mon Mar 7 & Wed Mar 9

If you were convicted of a crime you did not commit, would you have the right to escape form prison ?

Plato, Crito

assignment #2
due Feb 29

pass/fail assignment
due Mar 7

course objectives

you will exercise and develop

- ✦ a familiarity with debates, authors and works in philosophy of law
- ✦ an appreciation for questions in philosophy of law and their relevance for current debates
- ✦ the ability to read court opinions on difficult issues
- ✦ analytical writing skills pertaining to topics in philosophy of law

course etiquette

just in case you forgot

- ✦ do the reading and come to class ready to engage with me and your fellow students
- ✦ disagree with me and your fellow students, but always be gracious and polite
- ✦ don't be shy and don't think what's on your mind is not worth sharing
- ✦ when you're in class, don't get too distracted by the other world – i.e. your phone, facebook, instagram, etc.

no plagiarism!

you may not copy the work of others without proper acknowledgement, and if you do so, you will fail the class

week 7: Mon Mar 14 & Wed Mar 16

Can someone be convicted for actions which now count as hideous crimes but which were legal at the time of one's actions?

Hart, *Positivism and the Separation of Laws and Morals*

Fuller, *Positivism and Fidelity to the Law: A Reply to Hart*

PART 3 - FREEDOM OF SPEECH

week 8: Mon Mar 21 — No class Wed Mar 23

**assignment #3
due Mar 21**

Do "safe spaces" in college make sense?

week 9: Mon Mar 28 & Wed Mar 30

Why is freedom of speech so important in the first place?

Mill, *On Liberty* [chapter 2]

week 10: Mon Apr 4 & Wed Apr 6

*pass/fail assignment
due Apr 4*

Can freedom of speech be restricted for reasons of national security?

Agamben, *The State of Exception* [excerpts]

Abrams v. US (1919)

week 11: Mon Apr 11 & Wed Apr 13

Does freedom of speech include the right to offend?

A Cartoon of Free Speech

PART 4 - WRONGFUL CONVICTIONS

week 12: Mon Apr 18 & Wed Apr 20

**assignment #4
due Apr 18**

Why do wrongful convictions occur?

The Innocent Project

week 13: Mon Apr 25 & Wed Apr 27 — Spring break

tutoring services

the Academic Center for Excellence (ACE) is a tutoring center on campus

ACE provides appointment based and drop-in tutoring in the humanities, social sciences, and writing, as well as general writing and academic skills workshops

to obtain information about the ACE and the SLC, please visit their website at www.lehman.edu/issp or call the ACE at 718-960-8175

disability accommodation

students who have a disability which may necessitate an academic accommodation or the use of auxiliary aids and services in a class should contact the Office of Student Disability Services located in Shuster, room 238, phone number 718-960-8441

week 14: Mon May 2 & Wed May 4

We know that *some* innocent are convicted, but *how many* are they and are they *too many*?

Risinger, *Innocents Convicted*

week 15: Mon May 9 & Wed May 11

How can we control and manage decisional errors at trial?

Hamer, *Probabilistic Standards of Proof*

week 16: Mon May 16 & Wed May 18

Review

pass/fail assignment
due May 2

assignment #5
FINAL PAPER
due May 23