

LEH355 / PHI365

LEGAL REASONING

time M&W 11–12:15

venue Carman 348

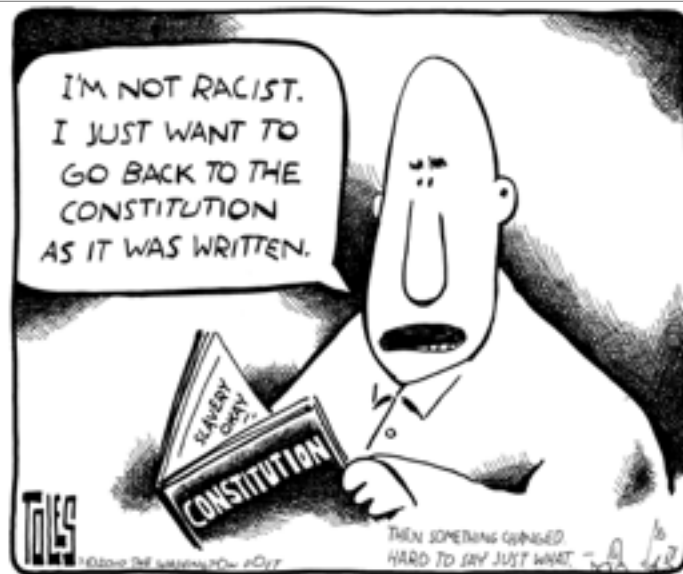
instructor Marcello Di Bello

e-mail marcello.dibello@lehman.cuny.edu

office hrs M&W 2-3, Carman 365

Overview

In this course, you will examine how judges and lawyers reason, in particular, how legal rules apply to individual cases; how judges interpret the text of the law; how conclusions about “matters of fact” are reached in court; and how past court decisions influence current decisions.

**Materials**

Course materials will include court cases, audios and videos, chapters from Frederick Schauer's book *Thinking Like a Lawyer* (Harvard UP, 2012), powerpoint slides, handouts and homework assignments.

Website

All course materials mentioned above will be available on the course website. Please check the website regularly

phi365.wordpress.com

Topics

Part 1 - Rules and their interpretation - How are legal rules applied to individual cases? Are they applied literally or in accordance to their purpose?

Part 2 - Laws and facts - How do “matters of fact” differ from “matters of law”? How do jurors reach conclusions about the facts of a case?

Part 3 - Legal precedents - How do judges tell when a previous case constitute a precedent that applies to a new case? When are precedents overruled?

Part 4 - Mock trials - You will argue famous court cases — some older and others more recent — about abortion, Obama care and same sex marriage.

Requirements

You are required to

- ✦ complete the *graded assignments* and the *final project*
- ✦ attend class regularly

Graded assignments (50% of the grade)

There will be five graded assignments, worth 10% each:

- #1. court decision analysis
due *Wed Sept 9*
- #2. argument analysis
due *Mon Sept 28*
- #3. fact analysis
due *Wed Oct 14*
- #4. appellate decision analysis
due *Mon Oct 26*
- #5. case comparison
due *Mon Nov 16*

Final project (50% of the grade)

The final project consists of

- ✦ participation in a mock trial
schedule TBA
- ✦ written court opinion or petitioner's or respondent's brief
due *Wed Dec 16*

More detailed instructions will be provided in due course.

Late policy

If an assignment is handed in late, you will not get credit for it.

Schedule

PART I - RULES AND INTERPRETATION

week 1: *Mon Aug 31 & Wed Sept 2*

Viewing laws as rules that are applied to individual cases is the most common picture of legal reasoning. Is this picture accurate? How are rules applied to individual cases?

reading

Schauer, *Rules—in law and elsewhere* [chapt. 2]

week 2: *Wed Sept 9* — No class on *Mon Sept 7*

We will read a case in which a legal rule about inheritance was interpreted and applied according to its purpose and not its letter.

**assignment #1
due Sept 9**

reading

Riggs v. Palmer (1889)

week 3: *Wed Sept 16* — No class on *Mon Sept 14*

Same topic as last week.

week 4: *Mon Sept 21* — No class on *Wed Sept 23*

Some judges believe judicial decisions should be guided primarily by the *text* of the law; others believe the *purpose* of the law should play a pivotal role. We will examine their arguments.

watching

Scalia and Breyer Debate the Constitution

week 5: *Mon Sept 28 & Wed Sept 30*

We will continue the discussion “text *versus* purpose” by looking at the imaginary case of the speluncean explorers.

**assignment #2
due Sept 28**

reading

Fuller, *The Case of the Speluncean Explorers*

Course objectives

You will exercise and develop:

- ✦ the ability to read court opinions and identify their rationale
- ✦ the awareness that legal decisions can have lasting effects on the lives of people
- ✦ analytical reasoning skills, in particular, the ability to weight reasons for/against a claim
- ✦ analytical writing skills, in particular, the ability to formulate a legal argument and defend it from objections

Course etiquette

Just in case you forgot:

- ✦ do the reading and come to class ready to participate
- ✦ disagree with me and your fellow students, but always be polite
- ✦ don't be shy and don't think your ideas are not worth sharing
- ✦ when you're in class, don't get distracted by the other world – i.e. your phone, Facebook, etc.

No plagiarism!

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

PART 2 - FACTS AND LAWS

week 6: *Mon Oct 5 & Wed Oct 7*

Legal reasoning is not only about rules and their interpretation, but also about “facts”. In this respect, we will examine the distinction between “matters of fact” and “matters of law”.

reading

Schauer, *Law and Fact* [chapt. 11]

week 7: *Wed Oct 14* — No class on *Mon Oct 12*

Same topic as last week.

watching

Twelve Angry Men (1957)

assignment #3
due Oct 14

week 8: *Mon Oct 19 & Wed Oct 21*

The standard of proof in criminal cases is beyond a reasonable doubt. What does that mean, exactly?

reading

in re Winship (1970)

week 9: *Mon Oct 26 & Wed Oct 28*

We will see how the law/fact distinction is apparent in how appellate courts reach their decisions.

reading

People v. Goetz (NY 1986)

assignment #4
due Oct 26

sign up for a mock trial of your choice and think about the final project

PART 3 -LEGAL PRECEDENTS

week 10: *Mon Nov 2 & Wed Nov 4*

A past case applies to a new case when the two are sufficiently similar, but how to decide when the similarity is “sufficient”?

reading

Schauer, *Practice and Problem of Precedent* [chapt. 3]

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 11: *Mon Nov 9 & Wed Nov 11*

Legal precedents can be overruled. As an illustration, we will first read an old court decision in favor of racial segregation...

reading

Plessy v. Ferguson (1896)

week 12: *Mon Nov 16 & Wed Nov 18*

...and then, we will read a more recent decision banning racial segregation.

reading

Brown v. Board of Education (1954)

**assignment #5
due Nov 16**

PART 4 -MOCK TRIALS

week 13: *Mon Nov 23 & Wed Nov 25*

A team of students will argue a case about abortion.

reading

Roe v. Wade (1973)

week 14: *Mon Nov 30 & Wed Dec 2*

A team of students will argue a case about Obama care.

reading

National Fed. of Ind. Business v. Sebelius (2012)

week 15: *Mon Dec 7 & Wed Dec 9*

A team of students will argue a case about same sex marriage.

reading

Obergefell v. Hodges (2015)

week 16: *Mon Dec 14*

Final overview of the course.

**Final project
due Dec 16**