

## Philosophy 347

### *Philosophy of Law*

*Lectures:* Tue & Thu 11:00-11:50, Armory 0112

*Instructor:* Christopher Morris

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*Office hrs:* Wed. 2:00-3:30 and by appointment

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An introduction to the philosophy of law or jurisprudence. This course will cover several topics: the nature of law and of legal authority, the obligation to obey the law, the interpretation of legal documents, the nature of our rights and obligations, punishment.

The course will raise abstract and general questions about law and legal systems. Students should have had at least a course or two in philosophy, preferably in ethics or political theory (the latter in Phil or Gov).

Students who do well and complete the course should possess knowledge of the major controversies about the nature of law and of legal systems, an appreciation of the principal answers to these controversies, and an ability to reason critically about these matters. Students who don't do much work will learn little and waste their (and our) time.

#### **Course Requirements**

1. to complete the assigned readings,
2. to attend lectures,
3. to attend discussion sections,
4. to take an occasional unannounced short quiz (in lecture or discussion section),
5. to take two in-class tests (Tue 24 Feb, Thu 9 April)
6. to write a short (1,000-1,500 words) essay (due Tue 21 April)
7. to take a final exam (Thu 14 May, 8-10am)

Students should take note of work requirements and deadlines; late essays will be penalized and make-up tests will not be offered. (Exceptions to these policies will be made for medical reasons and other emergencies.) "Extra credit" assignments will not be offered.

Suggested essay topics will be distributed part-way through the term.

The instructor will communicate with the class frequently by email. A few reading assignments may

be sent to students by attachment. And announcements will often be made by email. Students are responsible for checking their email regularly.

## **Grading Policy**

Final grades will normally be a weighted average of the essay and test grades (tests and quizzes 33%, essay 33%, final exam 33%). The instructor reserves the right to raise the final grade of anyone whose work shows dramatic improvement, as well as the right to fail any student who does not pass the final exam. Plagiarism will normally result in failure of the course (a grade of XF) and, when permitted, corporeal punishment.<sup>1</sup>

## **Required Text**

Frederick Schauer and Walter Sinnott-Armstrong, eds., *The Philosophy of Law: Classic and Contemporary Readings with Commentary* (New York: Oxford University Press, 1996). 978-0-19-515512-9, \$80.

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<sup>1</sup> The University has a Code of Academic Integrity, administered by the Student Honor Council. This Code sets standards for academic integrity at UMD for all undergraduate and graduate students. Students are responsible for upholding these standards for this course. Students should be aware of the consequences of cheating, fabrication, facilitation, and plagiarism. For more information on the Code see <http://www.shc.umd.edu>.

## Tentative Schedule of Lectures and Readings

Students are expected to complete the assigned readings by the time they attend class. The lecture will almost always bear on the assigned readings but will not necessarily explain them. Occasionally the readings will be discussed in detail in the Friday discussion sections. Note that some of the readings are more difficult or more important than others, and this will often be noted by the instructor in class. Changes will occasionally be made, and these will be announced at the start of class. Unless otherwise indicated, readings will be found in Schauer & Sinnott-Armstrong, eds., *The Philosophy of Law*. (Readings marked by an \* are unusually heavy.)

<b>Date</b>	<b>Topic</b>	<b>Assignment</b>
Tue 27 Jan	<b>introduction</b>	
Thu 29 Jan	<b>US constitutional law</b>	Declaration of Independence (Jefferson's draft), the Articles of Confederation (1781), US Constitution (1788)
Tue 3 Feb	<b>American slavery</b>	S & S, Finkelman, Shaw, Cover (107-15)
Thu 5 Feb	<b>rights and duties</b>	S & S, Feinberg, Dworkin (279-98)
Tue 10 Feb	<b>liberty</b>	S & S, Mill (307-313)
Thu 12 Feb	<b>liberty</b>	Feinberg, Mill, Dworkin (320-25, 328-37)
Tue 17 Feb	<b>liberty</b>	Devlin, Hart, <i>Bowers</i> (338-52)
Thu 19 Feb	<b>liberty: speech</b>	S & S, Mill, Delgado, Lawrence, Strossen, <i>UMW Post</i> (388-401)
Tue 24 Feb	<b>TEST</b>	
Thu 26 Feb	<b>liberty: property</b>	S & S, Waldron, Ryan, Simmons, <i>Penn Central</i> (474-92)
Tue 3 Mar	<b>what is law? natural law</b>	S & S, Aquinas, Finnis, Fuller (1-27)*
Thu 5 Mar	<b>legal positivism I</b>	S & S, Austin (29-39)
Tue 10 Mar	<b>legal realism</b>	S & S, Llewellyn, Kennedy (50-69)
Thu 12 Mar	<b>legal positivism II</b>	Hart (40-9)
<i>Spring Break</i>		
Tue 24 Mar	<b>law as integrity</b>	S & S, Dworkin (70-100)*
Thu 26 Mar	<b>punishment</b>	S & S, Bentham (661-82)

Tue 31 Mar	<b>punishment</b>	S & S, Kant (691-704, 717-19)
Thu 2 Ap	<b>capital punishment</b>	S & S, van den Haag, Reiman, Nathanson (720-60)
Tue 7 Ap	<b>capital punishment</b>	<i>Furman, Gregg, McCleskey, Herrera</i> (761-80)
Thu 9 Ap	<b>TEST</b>	
Tue 14 Ap	<b>interpretation</b>	S & S, Schauer, <i>Home Bldg</i> , Berger, Bork (117-36)
Thu 16 Ap	<b>interpretation</b>	Brest, Dworkin (137-49)
Tue 21 Ap	<b>interpretation</b>	<i>US v. Locke</i> , Posner, <i>Bray, N.O.W</i> (149-60) <b>term essay due</b>
Thu 23 Ap	<b>interpretation</b>	S & S, Frank, Tushnet, Minow & Spelman, Posner (190-218)*
Tue 28 Ap	<b>the obligation to obey civil disobedience</b>	S & S, Rawls, Singer, <i>Walker</i> (250-77)
Thu 30 Ap	<b>the obligation to obey</b>	S & S, Rawls, Simmons (219-31)
Tue 5 May	<b>the obligation to obey</b>	to be determined
Thu 7 May	<b>the obligation to obey</b>	to be determined
Tue 12 May	<b>concluding thoughts</b>	
Thu 14 May 8-10am	<b>FINAL EXAM</b>	