

Spring 2023
Philosophy of Law
Philosophy 315—01

Professor:

Charles Joshua Horn, Ph.D.

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Office Location: CCC 418

Drop-In Hours: TR, 9:00am—9:30am; MW, 11:00am—12:00pm; By Appointment

<http://charlesjhorn.webstarts.com/index.html>

Course Information:

Class Time: TR, 9:30am—10:45am

Class Location: CCC 305

Course Description:

Philosophy of law or jurisprudence is a branch of philosophy concerned with a general analysis of both law in itself and legal institutions, broadly conceived. Philosophy of law is further subdivided into at least three other main categories of thought: analytic jurisprudence, normative jurisprudence, and the critical analysis of the law. Analytic jurisprudence involves an analysis of how law differs from other norms, such as those in ethics. Normative jurisprudence examines the relationship between law and other issues such as freedom and punishment. Critical analysis of the law involves challenges to traditional forms of legal philosophy.

In this course, we will consider issues in both analytic jurisprudence and normative jurisprudence. Our focus will be on two fundamental questions: First, what is the foundation of the law? Put differently, what establishes the *force* of the law? And second, do we have an obligation to follow the law? While these questions derive from different parts of jurisprudence, they are related questions. Answers to the first question can help inform answers to the second. The course will cover both historical and contemporary responses to these interrelated questions encompassing thought from Plato and Sophocles in the Ancient world, to Hobbes and Leibniz in the 17th century, and to Austin and Dworkin in the 20th century.

During Unit IV of the course, students will have the opportunity to consider other issues in philosophy of law not covered earlier in the semester. Students may consider some of the following questions: those related to freedom, economics, punishment, constitutional interpretation, as well as critical responses to legal theory such as those found in Marxist and feminist theories. Topics will be chosen in consultation with Dr. Horn.

Text:**Rental:**

- I. *Philosophy of Law: 9th Ed.*
Feinberg, Coleman, and Kutz
Cengage
ISBN: 978-1133942962
- II. *Philosophy of Law: An Introduction*
Tebbit
Routledge
ISBN: 978-0-415-82746-1

Supplemental:

- III. *Philosophy of Law: A Very Short Introduction*
Wacks
Oxford University Press
ISBN: 978-0-19-968700-8
- IV. *The Three Theban Plays: Antigone; Oedipus the King; Oedipus at Colonus*
Sophocles
Penguin Random House
ISBN: 0140444254

Expectations:

Students are expected to check into Canvas daily in order to check for class announcements, complete assignments, use the discussion board, etc. Students are expected to attend every class and remain for the entire time. Do not come late or leave early. Students must complete the necessary readings prior to class and be prepared for discussion and participation. Students will treat other students with respect. This means turning off all electrical equipment, including cell phones, laptops, and tablets. Students must also address their peers in a respectful tone. It is important to note that the nature of this class will inevitably result in disagreements among colleagues; however, it is essential to maintain respect toward one another despite disagreement.

Course Goals:

- Demonstrate an ability to read carefully, speak clearly, think critically, and write persuasively about the nature of law and its relationship to other norms.
- Critically engage a variety of ideas and worldviews from both historical and contemporary sources so as to formulate reflective and informed moral, ethical, and legal judgments.

Grading Criteria:

Assignments may be completed beyond the due dates for both unexcused and excused absences. For unexcused absences, a late penalty may be imposed. Late work must be complete within one week of the assignment due date.

Canvas will automatically calculate and update grades as the semester progresses. To calculate your grade, take your score in the “Total” column on Canvas and divide by 100. Then use the scale below. The goal for the class is to try to earn as many points as possible. Any points earned over these 100 points will count as extra credit.

- a) Three In-Class Exams: 60 Points Total (20 Points Each)
 - i) Exams will be composed of several short answer questions.

- b) One Individual Presentation 20 Points Total (20 Points Each)
 - i) In each class period, one student will introduce the assigned reading for the day. The goal is *not* to offer a summary of the main claims from the text, but to raise questions, objections, and concerns for us to take up in the class. Students should prepare a handout in advance for the rest of the class to assist in the presentation. The presentation should last roughly 15-20 minutes.

- c) One Group Presentation 20 Points Total (20 Points Each)
 - i) During the last two weeks of class, groups will present on a topic in philosophy of law. Topics will be chosen by the group and approved by Dr. Horn.

- d) Engagement
Engagement comes in many forms. I reserve the right to raise or lower final grades up to 10 points based on engagement, meaning that it is also possible for engagement points to remain at 0. There is no hard and fast rule for raising or lowering the 10 points. While the grade is subjective, it is not arbitrary. Taken together, engagement includes, but is not limited to:
 - i) Preparation: reviewing readings and materials before class.
 - ii) Focus: avoiding distractions during class.
 - iii) Presence: responsive during class.
 - iv) Asking Questions: in class, out of class, on the discussion board, through email, etc.
 - v) Listening: hearing what others say, and what they are not saying.
 - vi) Specificity: referring to specific ideas from readings and discussions.
 - vii) Synthesis: making connections between readings and discussions.

*Grading will be anonymous when possible and will follow this scale:

“Pass” Range			“Fail” Range	
(70—100 Points)			(<70 Points)	
“A” Range	“B” Range	“C” Range	“D” Range	“F” Range
	B+ (87—89)	C+ (77—79)	D+ (67—69)	F (<60)
A (94—100)	B (84—86)	C (74—76)	D (60—66)	
A- (90—93)	B- (80—83)	C- (70—73)		

Academic Integrity:

Cheating, fabrication, plagiarism or helping others to commit these acts will not be tolerated. Academic dishonesty will result in severe disciplinary action including, but not limited to, failure of the student assessment item or course, and/or dismissal from the University. Additional information can be found at:

<http://www.uwsp.edu/stuaffairs/Documents/RightsRespons/SRR-2010/rightsChap14.pdf>

Disability Information:

Students with disabilities should register with the ADA coordinator on campus and let me know at the beginning of the semester. I would be happy to accommodate you in any way that I can. Just let me know. More information can be found at:

<http://www.uwsp.edu/stuaffairs/Documents/RightsRespons/ADA/rightsADAPolicyInfo.pdf>

Intellectual Property Notice:

Lecture materials and recordings for Philosophy 315 are protected intellectual property at UW-Stevens Point. Students in this course may use the materials and recordings for their personal use related to participation in this class. Students may also take notes solely for their personal use. If a lecture is not already recorded, you are not authorized to record my lectures without my permission unless you are considered by the university to be a qualified student with a disability requiring accommodation. [Regent Policy Document 4-1] Students may not copy or share lecture materials and recordings outside of class, including posting on internet sites or selling to commercial entities. Students are also prohibited from providing or selling their personal notes to anyone else or being paid for taking notes by any person or commercial firm without the instructor's express written permission. Unauthorized use of these copyrighted lecture materials and recordings constitutes copyright infringement and may be addressed under the university's policies, UWS Chapters 14 and 17, governing student academic and non-academic misconduct.

Course Schedule:

UNIT I: NATURAL LAW THEORY

Week 1 January 24 January 26	(January 22—January 28) Syllabus/Course Introduction Tebbit, Ch. 1—Morality, Justice, and Natural Law	II. 3
Week 2 January 31 February 2	(January 29—February 4) Wacks, Ch. 1—Natural Law Bentham, “Introduction to the Principles of Morals and Legislation” Fuller, “The Case of the Speluncean Explorers”	III. 1 I. 33 I. 36
Week 3 February 7 February 9	(February 5—February 11) Aquinas, Selections from <i>On Law, Morality, and Politics</i> Finnis, “Natural Law and Natural Rights”	I. 52 I. 57
Week 4 February 14 February 16	(February 12—February 18) Leibniz, <i>Nova Methodus II</i> Leibniz, <i>Codex Juris</i>	Canvas Canvas
Week 5 February 21 February 23	(February 19—February 25) Leibniz, <i>Elementa Juris Naturalis IV</i> Exam I on Canvas—No Class	Canvas

UNIT II: LEGAL POSITIVISM

Week 6 February 28 March 2	(February 26—March 4) Wacks, Ch. 2—Legal Positivism Tebbit, Ch. 2—From Common Law to Modern Positivism	III. 25 II. 20
Week 7 March 7 March 9	(March 5—March 11) Tebbit, Ch. 3—Hart’s Legal Positivism Austin, “A Positivist Conception of Law”	II. 35 I. 74
Week 8 March 14 March 16	(March 12—March 18) H.L.A. Hart, “Law as the Union of Primary and Secondary Rules” Wacks, “Dworkin, The Moral Integrity of the Law”	I. 87 III. 49
	(March 19—March 25) Spring Break	
Week 9 March 28 March 30	(March 26—April 1) Dworkin, “The Model of Rules I” Exam II on Canvas—No Class	I. 103

UNIT III: OBEDIENCE TO THE LAW AND RADICAL CRITIQUES

Week 10	(April 2—April 8)	
April 4	Tebbit, Ch. 8—Obedience and Disobedience	II. 121
April 6	Sophocles, <i>Antigone</i>	IV. 55
Week 11	(April 9—April 15)	
April 11	Plato, <i>Crito</i>	I. 251
April 13	Martin Luther King Jr., <i>Letter from Birmingham Jail</i>	I. 259
Week 12	(April 16—April 22)	
April 18	M.B.E. Smith, “Is There a Prima Facie Obligation to Obey the Law?”	I. 269
April 20	Tebbit, Ch. 11—Radical Critiques of Liberal Theories of Law	II. 175
Week 13	(April 23—April 29)	
April 25	Review/Make-Up Day	
April 27	Exam III on Canvas—No Class	

UNIT IV: GROUP PRESENTATIONS

Week 14	(April 30—May 6)	
May 2	Presentation 1, Presentation 2	
May 4	Presentation 3, Presentation 4	
Week 15	(May 7—May 13)	
May 9	Presentation 5, Presentation 6	
May 11	Presentation 7, Presentation 8	

FINALS WEEK

Week 16	(May 14—May 20)	
Online Tasks	Course Evaluations	