

# Philosophy of Law

Summer 2010



## Description

This course is an introduction to philosophy of law. We start by considering the nature of law. What is law, and what is the relationship between law and morality? We then consider philosophical questions about some of the central concepts in law, including contracts, property, causality, responsibility, and interpretation. We also consider special problems that arise in the case of international law. Finally, we consider critiques of traditional approaches to philosophy of law, and we consider feminism and critical race theory as alternative approaches. Our readings draw from historical as well as contemporary sources. The course is discussion-based, with each student doing at least one in-class presentation on a topic of their choice.

## General Information

- Time: M/T/W/R 11:30–1:05
- Place: 194 Mercer, #201
- Instructors: Colin Marshall and Jeff Sebo
- Email: [crm281@nyu.edu](mailto:crm281@nyu.edu) and [jeffsebo@gmail.com](mailto:jeffsebo@gmail.com)
- Office: 5 Washington Place, #607
- Office hours: by appointment
- Course website: [jeffsebo.net/teaching/](http://jeffsebo.net/teaching/)

## Readings

The required book for this course is Larry May and Jeff Brown, *Philosophy of Law*. All readings not from this book will be posted on blackboard.

## Grading

Your grades will be determined as follows:

- **Papers (50%):** Three papers, due at the end of the 2nd, 4th and 6th weeks of class. Each paper should present a carefully developed criticism of one of the readings. The first paper should be in the range of 2-4 pages, the second 3-5 pages and the third 6-8 pages. Any of the papers may be based on the presentation. The third paper can be an expanded and developed version of the first or second. The papers will count for 10%, 15% and 25% of the final grade, respectively.
- **Quizzes (30%):** Each lecture will begin with a short quiz covering that day's reading and the previous day's lecture.
- **Presentation (20%):** Each student will be required to sign up for one 15-20 minute in-class presentation on one of the readings. The presentation should both summarize the central claims and arguments of the reading and present the student's own evaluation.
- **Attendance and Participation:** Everyone is expected to regularly contribute to class discussion. Failing to do so may result in a reduction of the final grade (up to a whole letter grade).

## Policies

- **Laptops/Cell Phones:** Laptops are allowed, but only for taking notes. Cell phones must be on silent.
- **Special Accommodations:** If you need special accommodations, please let us know so that we can properly assist you.
- **Academic Integrity:** Plagiarism and other forms of academic dishonesty will not be tolerated. See the NYU College of Arts and Science policy on Academic Integrity for more information.
- **Late Work/Extensions/Incompletes:** Since part of the purpose of the quizzes is to reward regular attendance, we will not give make-up quizzes except in very exceptional circumstances. Extensions and incompletes will be granted only in exceptional circumstances. If you would like to request either, please do it well before the due date.

# Schedule

## Week 1: Introduction and Jurisprudence

- 6/28 - Introduction
- 6/29 - John Austin, "The Province of Jurisprudence Determined: Lecture 1"
- 6/30 - Oliver Wendell Holmes, Jr., "The Path of the Law"
- 7/1 - H.L.A. Hart, "The Concept of Law"

## Week 2: Jurisprudence

- 7/5 - NYU Closed - NO CLASS
- 7/6 - Ronald Dworkin, "The Model of Rules I"
- 7/7 - Michael Moore, "Law as Justice"
- 7/8 - Richard Posner, "The Economic Approach to Law"

## Week 3: Contracts and Property

- 7/12 - Thomas Hobbes, "Of the First and Second Natural Laws, and of Contracts"
- 7/13 - Charles Fried, "Contract as Promise"
- 7/14 - John Locke, "Of Property" and Robert Nozick, "Locke's Theory of Acquisition"
- 7/15 - A.M. Honoré, "Property, Title, and Redistribution" (First Paper Due)

## Week 4: Torts and Criminal Law

- 7/19 - H.L.A. Hart and A.M. Honoré, "Causation and Responsibility"
- 7/20 - Joel Feinberg, "Sua Culpa"
- 7/21 - John Stuart Mill, "On Liberty"
- 7/22 - Patrick Devlin, "The Enforcement of Morals" (Second Paper Due)

## Week 5: Constitutional Law and International Law

- 7/26 - Ronald Dworkin, "Constitutional Cases"
- 7/27 - Stephen Munzer and James Nickel, "Does the Constitution Mean What It Always Meant?"
- 7/28 - Antonin Scalia, "Constitutional Interpretation the Old Fashioned Way"
- 7/29 - H.L.A. Hart, "International Law"

## Week 6: International Law and Critical Theory

- 8/1 - Fernando R. Tesón, "A Philosophy of International Law"
- 8/2 - Kimberlé Crenshaw, Neil Gotanda, Gary Peller, Kendall Thomas, "Critical Race Theory"
- 8/3 - Patricia Smith, "Feminist Legal Critics: The Reluctant Radicals"
- 8/4 - Concluding Discussion