

PHI234 / POL312

**PHILOSOPHY OF LAW / JURISPRUDENCE**

time M&amp;W 12:30-1:45

instructor Marcello Di Bello

venue Carman 350

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office hrs M&amp;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**

all course materials described above are available through the course website, so you should check the website on a regular basis, at least once a week

[www.marcellodibello.com/PHI234](http://www.marcellodibello.com/PHI234)

**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 - crime and defenses** - what is a crime? when is the killing of another human being justified? what counts as self-defense?

**part 4 - free will and punishment** - do we have control over our actions? do we have free will? why do we hold people accountable and punish them?

## requirements

you are required to

- ✦ complete five graded assignments and
- ✦ obtain a 'pass' grade on six pass/fail assignments

## five graded assignments

there are five graded assignments for which you will receive a letter grade, each contributing to your final course grade, as follows:

- #1. reading laws [10%]  
due Wed Feb 2
- #2. court opinion analysis [20%]  
due Wed Feb 23
- #3. dialogue outline [20%]  
due Wed Mar 23
- #4. complete dialogue [20%]  
due Mon Apr 13
- #5. final paper [30%]  
due Wed May 13

## pass/fail assignments

the pass/fail assignments will help you focus on key aspects of the readings and will only be given a 'pass' or 'fail' grade

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

## schedule

### PART 1 - LAW AND INTERPRETATION

**week 1:** Wed Jan 28

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

**week 2:** Mon Feb 2 & Wed Feb 4

We will look at some written laws and ask what makes them laws and whether laws are just human conventions.

**assignment #1**  
**due Feb 2**

*readings*

*Hammurabi's code; Twelve Tables; Universal Declaration of Human Rights; NY Penal Code*

**week 3:** Mon Feb 9 & Wed Feb 11

Judges can be asked to decide difficult cases. What should guide their decisions?

*pass/fail assignment*  
*due Feb 9*

*readings*

*Tennessee Valley Authority v. Hill, 437 U.S. 153 (1978)*

*DeBoer v. Snyder (6th Circuit, 2014)*

**week 4:** Mon Feb 16 & Wed Feb 18

There is no class on Feb 16; on Feb 18 we will continue with last week's topic.

### PART 2 - LAW AND MORALITY

**week 5:** Mon Feb 23 & Wed Feb 25

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

**assignment #2**  
**due Feb 23**

*readings*

*Sophocles, Antigone*

*pass/fail assignment*  
*due Feb 25*

## 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

### *week 6: Mon Mar 2 & Wed Mar 4*

*pass/fail assignment  
due Mar 4*

If you were convicted of a crime you did not commit, do you think you had the right to escape from prison and avoid your sentence?

#### *readings*

Plato, *Crito*

### *week 7: Mon Mar 9 & Wed Mar 11*

*pass/fail assignment  
due Mar 9*

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

#### *readings*

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

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

### *week 8: Mon Mar 16 & Wed Mar 18*

*pass/fail assignment  
due Mar 16*

Can our freedom of speech and our right to privacy be curtailed for reasons of national security?

#### *readings*

Bush, *We Wage a War to Save Civilization Itself*

Agamben, *The State of Exception*

## **PART 3 - CRIME AND DEFENSES**

**assignment #3  
due Mar 23**

### *week 9: Mon Mar 23 & Wed Mar 25*

Are there exceptional circumstances that justify killing others?

#### *readings*

Fuller, *The Case of the Speluncean Explorers*

*R v Dudley and Stephens* (1884) 14 QBD 273 DC

## 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 10:** *Mon Mar 30 & Wed Apr 1*

Writing workshop in preparation for assignment #4 due after Spring break. There will be 5-minute presentations by students on their philosophical dialogues, followed by Q&A.

**week 11:** *Mon Apr 6 & Wed Apr 8*

No classes — it's Spring break!

**week 12:** *Mon Apr 13 & Wed Apr 15*

We cannot be guilty of a crime unless the conduct that led to the crime included a *voluntary* act. But what is a voluntary act?

*readings*

*Brown v. State*, 995 S.W.d 276 (Tex. 1997)

**week 13:** *Mon Apr 20 & Wed Apr 22*

In what circumstances are we allowed to use deadly force against others?  
What counts as self-defense?

*readings*

*People v. Goetz*, 497 N.E.2d 41 (NY 1986)

**assignment #4**  
**due April 13**

*pass/fail assignment*  
*due Apr 20*

## PART 4 - FREE WILL AND PUNISHMENT

**week 14:** *Mon Apr 27 & Wed Apr 29*

We will explore findings in criminology and neuroscience which suggest that we have less control over our actions than we thought.

*pass/fail assignment*  
*due Apr 29*

## tutoring services

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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](http://www.lehman.edu/issp) or call the ACE at 718-960-8175

## disability accommodation

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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 15:** *Mon May 4 & Wed May 6*

We will examine “determinism”, namely the view that every event (including our decisions and actions) could not have been otherwise.

**week 16:** *Mon May 11 & Wed May 13*

If our actions are predetermined and could not have been otherwise, what does that mean for the law and the practice of punishment?

<p><b>assignment #5</b></p> <p><b>FINAL PAPER</b></p> <p><b>due May 13</b></p>
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