

PHI 3270: Foundations of Law Course Syllabus

Instructor: Dr. Mark Satta
Email: mark.satta@wayne.edu
Office Hours: Wed. 2-4pm or by appointment

Class Location: Zoom/Old Main, Room 0143
Term: Winter 2022
Class Dates: January 10 – April 25

Course Description:

This course is an introduction not only to certain features of legal systems (especially the U.S. legal system), but also an introduction to the *philosophical foundations* for those features of legal systems. Thus, for example, we will discuss not only how property law works but also prominent philosophical arguments in favor of certain systems of property law. The same is true for other topics covered in this course, such as criminal law, judicial interpretation, and the nature of law itself. In addition to learning about the philosophical arguments grounding our legal system, students will have the opportunity to challenge and critique those philosophical arguments and to ask what other arguments might be offered instead. This will be facilitated, in part, by readings that also challenge such systems.

Learning Outcomes:

During the semester you will probably encounter some views that you like and others that you do not like. My goal is *not* to convince you to adopt any particular view. Rather my goals are that by the end of the course you will be able to do the following:

- Demonstrate a basic understanding of some key issues in applied philosophy of law.
- Apply critical thinking skills to assess arguments and claims about law and legal systems.
- Express your own positions about issues in philosophy of law using clear, accessible prose.
- Distinguish philosophical arguments from legal arguments.
- Identify ways in which classical philosophical arguments about law influence law today.
- Examine questions about the nature of law and legal systems from multiple perspectives.

Required Texts: All readings for this course will be provided on the course's Canvas page.

Grading:

Attendance and Participation	10%
Short Reading Summaries	45% (9 summaries; 5% each)
Midterm Exam	20%
Final Exam	25%

Grading Scale:

A if $\geq 93\%$
A- if between $90\% \leq$ and $< 93\%$
B+ if between $87\% \leq$ and $< 90\%$
B if between $83\% \leq$ and $< 87\%$
B- if between $80\% \leq$ and $< 83\%$
C+ if between $77\% \leq$ and $< 80\%$
C if between $73\% \leq$ and $< 77\%$
C- if between $70\% \leq$ and $< 73\%$
D+ if between $67\% \leq$ and $< 70\%$

D if between $63\% \leq$ and $<67\%$

D- if between $60\% \leq$ and $<63\%$

F if $<60\%$: F

Attendance & Participation: Your participation grade will be based on class attendance, as well as your preparedness for class and your participation in class discussion and activities. For classes held on Zoom, having your camera on (unless you have permission to do otherwise) will also be a factor considered as part of class participation. Students are required to participate in a manner that is respectful to all. If you have an occasional scheduling conflict for which you need to miss some or all of a class period, please let me know in advance if possible. Excused absences will not harm your participation grade and absences are more likely to be excused if you reach out to me in advance. Thus, it is in your own interest to let me know about potential absences in advance.

Reading Summaries: Throughout the semester, you will need to submit a total of 9 reading summaries. A reading summary is a short (200-300 word) summary of the readings assigned for class that week. Reading summaries must be submitted via Canvas prior to the start of the relevant class. It is up to you to decide which weeks to submit reading summaries for. You can submit only one reading summary per class.

Weekly Module: Prior to the start of each week, I will post a new module on Canvas that contains all the content for that week. (For example, at the start of the third week of the term I will add a module called "Week 3" that will include all content assigned in the third week of the term.) A complete reading and assignment schedule is also listed at the end of this syllabus.

Email: You should check your WSU email regularly and read all messages sent to you about this class. Failing to read email messages or Canvas announcements is not an excuse for missing deadlines.

Camera Policy: For class session that meet on Zoom, students should keep their camera on unless they have asked for permission to have their camera off. If you need to have your camera off for class, please email me to request permission. I recognize that there are many good reasons someone could have for needing their camera off. Also, I understand that occasionally unanticipated circumstances may arise that require you to temporarily turn off your camera during class without first asking permission. That is no problem.

Office Hours: I will be available for weekly one-on-one meetings with students via Zoom. Students can sign up for a meeting using the Canvas calendar for this course. I will then send students a Zoom link prior to the meeting. Students may also request to meet with me during office hours in groups of two or more. For students who cannot meet during my regularly scheduled office hours, please email me. I am happy to arrange other times to meet.

Plagiarism & Cheating: Plagiarism, cheating, or any other form of academic dishonesty is unacceptable. Students should familiarize themselves with the Student Code of Conduct available here: <http://doso.wayne.edu/student-conduct/index.html>. Students should also review the following webpage: <https://doso.wayne.edu/conduct/academic-misconduct>.

In the event that it is discovered that you have violated the code or otherwise engaged in academic dishonesty, you will, at a minimum, fail the assignment connected to the violation or dishonesty. I also reserve the right to fail you for the course or to seek other penalties. If at any point during the semester

you are unsure whether something would count as plagiarism or a violation of the Student Code of Conduct, please ask me. I'm more than happy to provide you with additional feedback and information.

Disability Accommodation: I am committed to providing a welcoming and supportive environment for individuals with disabilities. Wayne State University offers a variety of accommodations and services for students with documented disabilities. If you have a documented disability that requires academic adjustments, you should email me by the end of the first week of class to ensure we have time to make proper arrangements. More details about Wayne State's disability accommodations can be found here: <https://studentdisability.wayne.edu/accommodations>.

Religious Observances: I am committed to providing a welcoming and supportive environment for individuals of all faiths (or no faith). It is University policy to respect the faith and religious obligations of its students. Because of the wide variety of religious affiliations of the Wayne State student body, our academic calendar does not make provisions for religious holidays. Thus, students with classes or examinations that conflict with their religious observances should notify their instructors well in advance so that mutually agreeable alternatives may be worked out. Please notify me at least two weeks in advance of such needs (the obvious exception being observances within the first two weeks of class).

Nondiscrimination Policy: Wayne State University is committed to a policy of non-discrimination and equal opportunity in all of its operations. I am committed to this as well. This policy embraces all persons regardless of race, color, sex (including sexual orientation and gender identity), national origin, religion, age, familial status, marital status, height, weight, disability, or veteran status. Wayne State also expressly forbids sexual harassment and retaliation against an individual for filing a complaint of discrimination or harassment. Please let me or another faculty/staff member know if you are experiencing harassment. More details about Wayne State's nondiscrimination policy can be found here: https://oeo.wayne.edu/pdf/affrm_actn_policy.pdf.

Campus Emergency Policy: In the unexpected occurrence of a major campus emergency, I reserve the right to alter course requirements, deadlines, and grading percentages in response to emergency circumstances. If such changes are made, I will do my best to make changes that are fair to all students. To the extent feasible, I will solicit input from students before making any changes.

Course Drops and Withdrawals: In the first two weeks of the (full) term, students can drop this class and receive 100% tuition and course fee cancellation. After the end of the second week there is no tuition or fee cancellation. Students who wish to withdraw from the class can initiate a withdrawal request on Academics. You will receive a transcript notation of WP (passing), WF (failing), or WN (no graded work) at the time of withdrawal. No withdrawals can be initiated after the end of the tenth week. Students enrolled in the tenth week and beyond will receive a grade. Because withdrawing from courses may have negative academic and financial consequences, students considering course withdrawal should make sure they fully understand all the consequences before taking this step. More information on this can be found at: <https://reg.wayne.edu/students/information#dropping>.

Class recordings: Students need prior written permission from me before recording any portion of this class. If permission is granted, the audio and/or video recording is to be used only for the student's personal instructional use. Such recordings are not intended for a wider public audience, such as postings to the internet or sharing with others. Students registered with Student Disabilities Services (SDS) who wish to record class materials should present their specific accommodation me as soon as possible.

Reading Schedule: What follows is a list of the topics we will cover and the weeks in which we will cover them. This also lists the materials assigned each week. All readings will be posted on Canvas under the module corresponding to the week in which they are assigned. Due dates for all major assignments are also listed. I reserve the right to make alterations to this list if need be (although I don't anticipate doing so). Any alterations to this list will be clearly indicated on the course website.

Unit 1: Property Law

Week 1, January 11:

- "Property and Ownership," entry in the *Stanford Encyclopedia of Philosophy* by Jeremy Waldron
- "Of Property," John Locke

Week 2, January 18:

- Chapters 1 & 3 of *An Introduction to Property Theory*, Gregory Alexander and Eduardo Peñalver

Week 3, January 25:

- "Intellectual Property," Seana Shiffrin
- "The Invisible Hand from the Grave," Barry Lam

Week 4, February 1:

- Excerpts from *The Color of Law*, Richard Rothstein
- Introduction from *Race for Profit*, Keeanga-Yamahtta Taylor
- "Black Homeowners Face Discrimination in Appraisals," Debra Kamin (New York Times)

Unit 2: Criminal Law

Week 5, February 8:

- "Theories of Punishment," entry from 1000-Word Philosophy by Travis Joseph Rodgers
- "Is it Better that Ten Guilty Persons Go Free Than that One Innocent Person be Convicted?" Vidar Halvorsen
- "Redemption in the DDU," Season 4, Episode 5 of the Hi-Phi Nation Podcast

Week 6, February 15:

- Introduction and Chapter 3 of *The New Jim Crow*, Michelle Alexander
- "Punishment without End," Season 4, Episode 6 of the Hi-Phi Nation Podcast

Week 7, February 22:

- "Mens Rea," Legal Information Institute
- "Negligence, *Mens Rea*, and What We Want the Element of *Mens Rea* to Provide," Marcia Baron
- "Criminal Minds," Season 4, Episode 1 of the Hi-Phi Nation Podcast

Week 8, March 1:

- “Police Discretion,” Season 4, Episode 2 of the Hi-Phi Nation Podcast
- Chapter 5 of *Let’s Get Free*, Paul Butler

Unit 3: Legal Interpretation

Week 9, March 8:

- **Midterm exam will be administered during the first half of class**
- “The Case of the Speluncean Explorers” Lon Fuller

Spring break

Week 10, March 22:

- Chapter 1 of *A Matter of Interpretation*, Antonin Scalia
- Introduction to *A Matter of Interpretation*, Akil Reed Amar

Week 11, March 29:

- Response in *A Matter of Interpretation* Ronald Dworkin
- Chapter 3b of *American Dialogue: The Founders and Us*, Joseph Ellis

Unit 4: Miscellaneous Topics in Philosophy of Law

Week 12, April 5: Analytic Philosophy of Law

- *Riggs v. Palmer*
- “Philosophy of Law,” *Internet Encyclopedia of Philosophy* entry by Kenneth Einer Himma

Week 13, April 12: Law and Moral Luck

- “The Punishment that Leaves Something to Chance,” David Lewis
- “Moments of Carelessness and Massive Loss,” Jeremy Waldron

Week 14, April 19: Final Thoughts

- “Amnesty or Abolition?” Kelly Lytle Hernández
- Chapter 6 of *Let’s Get Free*, Paul Butler