

PHIL 3752: PHILOSOPHY OF LAW - FALL 2020

Prof. M. M. Moody-Adams – Columbia University – Dept of Philosophy



This course explores philosophical reflection on the nature and practice of the law.

You will find the course rewarding if you want to read about, write about, and discuss such questions as:

- Is there a transcendent moral standard to which every society's laws should conform?
- What is the rule of law and why does it matter?
- What rules should govern interpretation of the law?
- What kinds of conduct should be subject to legal regulation? Should the law prevent us from engaging in risky behavior? Should people be legally liable for damages caused by non-criminal activities?
- When should public health considerations override protections of individual liberty?
- What justifies punishing people? To what principles must justified punishment conform?

The course is divided into five sections:

1. Debates about the Nature of Law
2. Legal Reasoning and Constitutional Interpretation
3. Themes in Legal Theory and Social Policy
4. Central Concepts and Principles in Criminal Law
5. Philosophy of Law in an Age of Mass Incarceration

Course readings will cover the natural law theories of Aquinas and Cicero; the legal positivism of John Austin; the realism and "proto-realism" of Oliver Wendell Holmes and Jerome Frank; excerpts from the political philosophy of Immanuel Kant, John Stuart Mill and John Rawls; writings by 20th and 21st Century legal theorists such as H.L.A Hart, Lon Fuller, Ronald Dworkin, and Catherine MacKinnon; and the writings of judges such as Richard Posner and Antonin Scalia.

Cases will be drawn from civil, criminal, constitutional, and international law.

The course will be taught remotely in Fall 2020, given the challenges of social distancing for large classes. The course will use the best features of *Canvas* to provide a rich academic experience: including "Breakout Rooms" and polling in *Zoom*, student participation with *Piazza*; videos in *Panopto* and *Vimeo*. For those on campus, it may be possible to hold a small number of out-door meetings of a "Peripatetic Philosophy of Law Group" if weather and campus space allow. We will tape any such meetings if they occur, so that all students in the class can share in the experience!