

Philosophy of Law

Philosophy125b

— *Philosophy and Legal Studies* —

Professor Andreas Teuber

Spring 2020



"I'm defrosting the basement freezer—do you still want this?"

AllPosters

1. Introduction: The course will cover a number of central topics in the philosophy of law: the nature of criminal responsibility (**What is a crime?**), necessity and duress, causation in the law, negligence and liability, criminal attempts, omissions, and the duty to rescue, insanity and excuse, the aims and limits of criminal punishment, and the nature and limits of law. An effort will be made to get at the principles underlying differing judicial judgments about particular cases as well as to answer more general questions: Under what conditions should a person be held responsible for his or her acts? Under what conditions may one be excused? Suppose I simply make a mistake? Or was merely careless? Or was mentally unstable? Is it fair to punish me for a harm I caused but did not intend? And if I attempt but fail to commit a crime, should I be punished less severely than if I succeeded? Why? Specific topics will include sleepwalking, mis-administered poisons, misfired bullets, and foiled attempts. Also: felony murder, duty to rescue, the relation of morality to law, strict criminal liability, and a brief excursus on how like and unlike the law is to rules of a game (e.g. chess and poker), cooking recipes and the Ten Commandments. We shall also look closely at one or more of the BIG cases to be heard this term before the US Supreme Court and that the High Court will decide in May and June.

II. **Class Meeting Time:** Tuesdays / Thursdays from 3:30 to 4:50

III. **Phil 125B Website:** The course will have its own LATTE Site for Spring 2020.

IV. **Writing:** Four short papers are required on topics growing out of the readings and class discussions. The papers should be about 5-6 pages in length. One of the four papers will be a credit/no credit paper. You will be also be given the opportunity to rewrite two of the four papers and thereby improve your grade. Paper topics will be available at least seven to ten (7-10) days before a paper is due. Because you have the opportunity to rewrite two papers, the course has been designated as “writing intensive.” There will also be three Reader Response Exercises.

V. **Examinations:** **There will be no midterm or final exam** There will be a short quiz towards the end of term on the reading on which everyone should do well if they have so much as glanced at the reading.

VI. **Reading:** The course is divided into four sections. Reading assignments will be blocked out week by week for each section. **For the course this Spring Semester, YOU ARE NOT REQUIRED TO BUY ANY TEXTBOOKS, BOOKS, OR COURSE PACK.** Much of the reading will be drawn from court cases and law review articles posted on the Course Website, although you may want to purchase the following which are available at the Bookstore **but will also be available ONLINE on the Course Website** without cost: Frederick Schauer’s *THINKING LIKE A LAWYER*, Harvard UP, 2012, Lloyd Weinrib’s, *LEGAL REASON: The Use of Analogy in Legal Argument*, Cambridge UP, 2005, E. H. Levi’s, *AN INTRODUCTION TO LEGAL REASONING*, Chicago UP, 2013, and Raymond Wacks’s *PHILOSOPHY OF LAW: A Very Short Introduction*, Oxford UP, 2014. All are good to have, however, as well as good to own.



VII. **Participation:** The participation requirement can be met in four ways or a combination of two or more of these ways: (1) by participating in class discussion; (2) by keeping a journal in which you record your thoughts on various knotty issues in the law; (3) by coming to discussion sessions to brainstorm, in particular, about the paper topics; and (4) by talking with your friends and other students: roommates, relatives, moms and dads, uncles and aunts, brothers, sisters, and about questions that arise in class about the law.

VIII. Grading: There will be one credit/no credit paper at the start. Grading of the three remaining papers will be broken down as follows: 35% for your strongest essay, 25% for your next best effort and 20% for the one which is least successful of the three graded papers, presuming that you receive “credit” for the “credit/no credit” paper. There will be three Reader Response Exercises of no more than two paragraphs each on a reading from the course announced in advance. The Reader Responses will count a total of 10% of the final grade. The quiz and participation requirement will each count 5%. There will also be opportunities to receive “extra credit.”

IX. Course Assistance: Course assistants will be assigned to this class. They will be responsible for reading and making comments on the papers. I too will read *ALL* the papers and be responsible for assigning a grade to each and every one of them.

X. Office Hours: I will hold office hours on Thursdays from 5:00 to 6:00 and by appointment. Please write ahead of time, that is, send an email, saying when and on what day you would like to meet. My office is RABB, 306. If you wish to contact me the best method is via email: teuber@brandeis.edu.



“Would everyone check to see they have an attorney? I seem to have ended up with two.”

XI. Resources to Support Academic Integrity: Brandeis offers essential information about the use of sources in academic writing.

Here’s a Guide to Using Resources
<http://usingsources.fas.harvard.edu/icb/icb.do>

To receive the most benefit, read all seven sections of the guide. You will gain a deep appreciation for why and how sources are used in academic writing and the ethical implication of improper citation.

XII. Accessibility and Accommodation Services:

Academic Services

<http://www.brandeis.edu/acserv/disabilities/>

offers a variety of accommodations and services to students with documented disabilities, permanent and temporary injuries, and chronic conditions. If you are a student with a disability Brandeis will engage you in an interactive process to provide you with an equal opportunity to participate in, contribute to, and benefit from the academic activities and materials in the course. The manager of accessibility services will work with you on an individualized case-by-case basis to provide appropriate services to ensure you have a rich and rewarding academic experience. If you are a student with a documented disability on record at Brandeis University and you would like to have a reasonable accommodation made for you in **PHIL 125a**, please see me as soon as possible.

XIII. Four-Credit Course: This is a four-credit course (with three hours of class-time per week). Success in this 4 credit hour course is based on the expectation that students will spend a minimum of 9 hours of study time per week in preparation for class (readings, papers, discussion sections, papers, and reader responses).

XIV. Learning Goals *Philosophy of Law* aims to teach students to think better and think smarter, to analyze controversial cases, and to develop principles that not only fit the facts of a given case or set of cases, but set strong legal precedent.

