

PHL370H1: Topics in the Philosophy of Law

Authority and the Law

Instructor: Steve Coyne (steven.coyne@mail.utoronto.ca)

We meet in UC161 on Tuesday and Thursday nights from 6-9PM.

My office hours are in JHB 419 on Tuesday and Thursday from 4:30-5:30PM. (If you cannot make these times, I am also generally free to meet by appointment in the daytime on Tuesday and Thursday and on Wednesday evenings. And I'm happy to chat after lecture.)

Course Description

H.L.A. Hart famously wrote that the law is not merely a 'gunman *writ* large'. The difference, arguably, is that the law claims authority over those subject to it – sometimes, perhaps, it even *has* that authority. But what is involved in this claim of authority? How do claims of authority differ from advice, threats, and requests? And what moral features of the law, if any, allow it to make good on such claims?

Readings

I will make the readings available on Blackboard. While there are relatively few readings for our course, note that many of them are substantially more challenging than the readings in PHL271. (I'm happy to give you advice on how to approach the readings – please contact me by e-mail or come chat with me during office hours.) You should expect to spend at least three hours, likely longer, on the readings for each class, and don't be surprised if you need to read them more than once.

Evaluation

Five Reading Responses (max 250 words each)	(+/-)
Two Essays (max 1,500 words each)	60%
In-class Midterm	25%
Participation	15%

Assignments

Our TA (Michael) will be grading the midterm, the second essay, and roughly half of the first essays, but you should direct all questions or concerns about grading to me.

Five Reading Responses (250 words): Before any five out of our ten meetings with assigned readings (that is, the meetings aside from the first meeting and midterm) you must turn in a brief question or objection to one of those readings. Each response is due on the night before class at 11:59PM. (For example, you can turn in a response to Wolff or Green's article by 11:59PM on June 29.) Your choice of days. No late responses. No re-dos. Only one response per day. Submit them to me (steven.coyne@mail.utoronto.ca) by e-mail with the subject heading "PHL370 Response 3".

I will grade these responses on a checkmark plus / checkmark / checkmark minus scheme. I am looking to see that you've read the reading and thought about it. (So make sure you cite the article / chapter with page numbers.) If your response shows evidence of this, it will receive at least a checkmark. Exceptionally thoughtful responses will get a checkmark plus; half-hearted efforts, or responses that show only a surface engagement with the reading, will get a checkmark minus. I have posted a couple of sample responses on blackboard.

You begin with a bonus of +1% to your final grade. A checkmark plus increases that bonus by 1% (up to a total bonus of +3%), a checkmark minus decreases the bonus by 1% (or becomes a malnus), and not turning in a response decreases the bonus by 2% (or becomes a malnus).

Example 1: Rebecca submits all five reading responses, and gets three checkmark pluses and two checkmarks. Her total bonus is +3%.

Example 2: Amit submits three out of five reading responses, and gets two checkmarks and one checkmark minus. His total malnus is -4%.

Two Essays (max 1,500 words): You will be required to complete two essays on assigned topics.

Midterm: On July 26 we will have a midterm consisting of short answer, passage analysis, and brief essay questions. I will post some sample questions on Blackboard to aid you in preparation.

Participation: You are expected to keep up with the readings and make meaningful contributions to class discussion that reflect your preparation. 5% of this grade will be determined, in particular, by contributions to five 50 minute group-work sessions throughout the semester. Note that participation, like all of your assignments, will be evaluated according to the University of Toronto grade guidelines (<http://www.writing.utoronto.ca/advice/general/grading-policy>)

Late Assignment Policy

Late reading responses will not be accepted for credit.

Extensions on essays can be granted *in advance* for good reasons, but otherwise, late essays will lose 3% of the assignment grade per day.

Accessibility

If you have a disability or health consideration that may require accommodation, please get in touch with me and Accessibility Services (www.accessibility.utoronto.ca).

Plagiarism

Plagiarism is a major academic offense and I am obliged to report all instances of plagiarism to administration. Please get in touch with me if you have any doubt whether your assignment appropriately credits the contributions of others. The university's code of conduct can be found here: <http://www.governingcouncil.utoronto.ca/policies/behaveac.htm>

Letters of Reference

I'm happy to act as a reference for students who regularly attend class and participate in discussion. Don't hesitate to ask – it's part of my job!

Anonymous Feedback

I've set up a google poll for you to send me anonymous feedback during the course.

Schedule

Tuesday, June 28: Introduction

No assigned reading. Instead, I will give an overview of the main themes of the course, explain a few key terms, and we will read and discuss an excerpt from Plato's *Crito*

Part 1: What is Authority?

Thursday, June 30: Anarchism

Wolff, Robert Paul. *In Defense of Anarchism*. (chapter 1) [16 pages]
Green, Leslie. *The Authority of the State*. (chapter 8.1-8.4) [20 pages]

Essay 1 topics posted July 1

Tuesday, July 5: Authority as Pre-emption

Raz, Joseph. *The Morality of Freedom* (chapter 2-3.1) [20 pages]
Group-work session 1

Thursday, July 7: Authority as a Claim Right

Darwall, Stephen. 'Authority and Reasons: Exclusionary and Second-Personal' [21 pages]
Darwall, Stephen. *The Second-Person Standpoint*. (chapter 3) [22 pages]

Tuesday, July 12: Authority as a Moral Power

Enoch, David. 'Authority and Reason-Giving' [36 pages]
Group-work session 2

For bonus, turn in rough draft of Essay 1 for peer editing by 11:59PM, July 12.

Thursday, July 14: Authority without Obligation

Sartorius, Rolf. 'Political Authority and Political Obligation' [13 pages]
Greenawalt, Kent. 'Legitimate Authority and the Duty to Obey' [11 pages]

Essay 1 due 11:59PM, July 15

Part 2: How is Authority Justified?

Tuesday, July 19: Instrumentalism

Hobbes, Thomas. *Leviathan*. (excerpt)
Raz, Joseph. *The Morality of Freedom* (chapter 3, chapter 4.1) [38 pages]

Thursday, July 21: Fair Play

Simmons, A.J. 'The Principle of Fair Play' [31 pages]
Group-work session 3

Essay 2 topics posted July 22

Tuesday, July 26: Midterm; Introduction to Consent Theories

Midterm (90 minutes)

No assigned reading. Instead, we will read and discuss short excerpts from the following in class:

Locke, John. *Second Treatise of Government*.

Hume, David. 'Of the Original Contract'

Thursday, July 28: Consent Theories (continued)

Greene, Amanda. 'Consent and Political Legitimacy' [26 pages]
Group-work session 4

Tuesday, August 2: Democracy and Authority

Estlund, David. *Democratic Authority*. (chapter 7, 8) [37 pages]

Thursday, August 4: Democracy and Authority (continued)

Viehoff, Daniel. 'Democratic Equality and Political Authority' [
Group-work session 5

Essay 2 due 11:59PM, August 7