

## **Philosophy of Law**

### **Philosophy 3430, Fall 2018**

Professor: Kathryn Lindeman

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Office Hours: W 2-4pm, and by appointment

Class Held: Grand Hall 141, TuTh 2:15-3:30PM

#### **Course Overview**

This course is a topical introduction to the philosophy of law. In this class we'll be focusing on questions about whether and how the law gives us reasons. First, we'll be looking at ways philosophers have attempted to argue for the existence of legal authority, the position that making a law requiring someone to A (or refrain from Aing) gives them an additional reasons to A (or refrain from Aing). That is, we're considering whether there is any special reason to obey laws *because* they are laws. We'll look at five potential answers to this question.

First, Philosophical Anarchism, argues that no, there is no such reason. Second, arguments from gratitude argue that yes, because of the benefits societies provide, those receiving them all a reason to obey laws, as such. Third, arguments relying on consent or the duty of fair play claim that particular behavior or participation in society gives everyone a reason to treat others fairly by obeying all laws. Fourth, natural duty arguments attempt to show that the duty to obey the law is an instance of a more general duty arising from our nature as moral agents. Finally, instrumental accounts take obeying the law to be required to achieve some other end that we have a reason to achieve.

In the second half of the course, we'll turn to cases where we might have reason to do something other than obey, defend, enforce, or apply the law. We'll look at cases of civil disobedience in cases of unjust laws, civil resistance in the case of unjust societies, reasons judges might have to misapply the law, reasons lawyers might have to refuse to defend the guilty, reasons we might have to not enforce unjust laws, and reasons we might have to not have police enforcement.

#### **Graded Components**

1. Reading analyses  
(a total of 20% of grade)
2. Student-Led Class Involvement  
(a total of 20% of grade)
3. Two essays  
(60% of grade)

**Keep both electronic copies of all assignments and all returned graded assignments until final grades have been submitted.**

#### **Assigned Reading**

There are no textbooks for this class. Links to all readings and bibliographic data can be found at the course website at: <http://www.klindeman.com/phillaw.html>

Please bring all readings to class, either in hard copy or on a laptop or tablet. Please be considerate of your classmates and restrict usage of these devices to accessing readings during class.

### Class Schedule (subject to revision)

Week 1	Reasons to Obey the Law Readings: 1. Lefkowitz, “The Duty to Obey the Law” Section 1* 2. Wellman, “Authority of Law” excerpt*
Week 2	Philosophical Anarchism Readings: 3. Wolff, <i>In Defense of Anarchism</i> , Ch 1
Week 3	Gratitude-based explanations of Legal Authority Readings: 4. Walker, “Political Obligation and the Argument from Gratitude”
Week 4	Fairness-based explanations of Legal Authority Readings: 5. Rawls, “Legal Obligation and the Duty of Fair Play”
Week 5	Rescue-based explanations of Legal Authority (Natural Readings: 6. Wellman, “Samaritanism and the Duty to Obey the Law”
Week 6	Justification-based explanations of Legal Authority Readings: 7. Raz, “Authority and Justification”
Week 7	Transition to Reasons to Undermine the law Readings: 8. Brownlee “Conscientious Objection, Civil Disobedience.”
Week 8-10	Reasons for Civil Disobedience and Resistance Readings: 9: Rawls, “The Justification of Civil Disobedience” 10: King, “Letter from Birmingham Jail” 11. Delmas “Political Resistance: A Matter of Fairness.” 12. Thoreau “Civil Disobedience” (excerpts)
Week 11-12	Reasons of Judicial and Legal Officials Readings: 13. Reeves “Judicial Obligation” 14. Zonay “Judicial Discretion” 15. Talbot “Replaceable Lawyers and Guilty Defendants”
Week 13-14	Reasons for Law Enforcement Readings: 16: Monaghan “On Enforcing Unjust Laws in a Just Society” 17: Dept of Justice Report on the Investigation of the Ferguson Police Department, Section II, Section III, and Section IV.D.2* 18. Wertheimer “Are the Police Necessary?” 19: Peels Nine Principles of Policing* 20: Peart: “Young, Black, and Frisked by the NYPD*”
Week 15	Review and Wrap-up

#### Class Deadlines:

First Reading Analysis:	9/04/18
First Paper:	10/16/18
Final paper:	12/09/18
Peer Drafts Due to Peer:	24hrs prior to editing

## Course Components

### Reading analyses

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Reading analysis are writing assignments designed to help students engage with the reading and develop important writing skills. In writing an analysis, a student addresses a single assigned reading and does two things: 1. they explain the author's purpose in writing the essay and 2. they accurately explain the argument(s) that the author uses to accomplish this purpose. In writing analyses, students practice important philosophical skills of identifying and accurately explaining central arguments from readings.

### Required analyses:

All students must write a reading analysis for “Legal Obligation and the Duty of Fair Play.”

### Analysis Standards:

1. they meet high academic writing standards for philosophy,
2. they are between 250-400 words,
3. they accurately accomplish the two goals of analyses,
4. they are anonymously formatted (see formatting requirements below).

### Analysis Credits:

*Full* analysis credit is given to analyses which meet the above standards and are turned in on the first day the reading is discussed.

*Half* analysis credit is given to analyses which meet the above standards but are submitted after the reading is discussed.

Analyses that do not meet the analysis standards may be re-written and *must be accompanied with the prior analysis attempt*. In some cases, office hour meetings will be required before re-written analyses may be resubmitted.

Note: readings marked with an asterisk (\*) may not be the subjects of reading analyses.

### Student-led Class Periods

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Students must each lead *at least* one student-led class period. Each student-led discussion has two leaders, who will come prepared to lead a portion of class. Leaders may together take 50 minutes of class time, or may each take 25 minutes. The goal is to spark discussion, review material, introduce new or interesting related issues, or have group exercises. Be creative and fun. You may use A/V equipment, have handouts, etc. Student leaders will be required to clear their plans for class with Professor Lindeman by 6pm the evening before their class-period and submit a brief one-page summary of their class period afterwards.

Sign up for leading discussions is on a first-come-first-serve basis, every Thursday except: 8/30, 10/11, 11/22, 12/06

Suggestions for strong student-led discussions: bring in real-life cases for discussion, draw together the topic of the discussion with previously discussed topics, outline potential objections for class discussion, give a summary of aspects of the reading that might have been challenging, make an activity for the class to do.

### Grades for Student-led classes are as follows:

As leader of student-led class:	12%
As participant during student-led classes:	8%

## Course Policies

### Attendance Policy

Students are expected to attend and be fully engaged participants in class. Engaged participation requires that class-members, course-content, and class discussion are the sole focus of your attention during class time.

Attendance is not a graded course component, but many graded course components (included participation during student-led class sessions) are difficult or impossible to complete if you do not attend class.

### Anonymity and Formatting Policy

I grade all essays anonymously because I believe that it leads to fairer assessments of written work.

Required formatting:

- Times New Roman, size 12 font, double spaced, 1" margins.
- Each page should include at the top right of each page: a page number, your Banner ID number.
- Your name or identifying information should **not** be included on *any* page.
- Do not make statements from which I can identify your gender, race, or nationality.
- Essays and all accompanying materials must be submitted as a single pdf. Pdfs should be titled with your banner id.
- Essays must be submitted electronically to the course gmail address: [SLU.PHIL.3430@gmail.com](mailto:SLU.PHIL.3430@gmail.com)
- Reading analyses should be printed and submitted in class.

→ Submitted work violating this policy cannot be graded.

### Email and Communication Policy

I try to answer all emails within 24 hours of receipt, but please know that I don't answer emails after 8pm or on Sundays. If you do not get an email within 24 hours, please feel free to send me a (polite) reminder email. I appreciate polite reminders, and I promise I will not hold them against you.

### Extension Policy and Deadlines

**To receive an extension, you must email me by midnight** the day before the essay is due and request an extension. **I grant all extension requests with a 72 hour extension.** You do not need to specify the reason you are asking for the extension.

If you need an extension for more than 72 hours, you need be in contact with the Dean's Office or the Student Health Center. In such cases, I am happy to be in contact with those offices to arrange a schedule for you to complete your work.

## **Quick and Careful Editing**

Quick and Careful Editing are services that students perform for each other on a voluntary and reciprocal basis.

In *Quick* Editing, students provide written feedback on writing standards and complete a Quick Editing Worksheet. In *Careful* Editing, students provide careful, constructive feedback on both structure and content, guided by a Careful Editing worksheet.

Doing an *exemplary* job Careful Editing another paper can raise the final grade on your own assignment a third of a letter grade (e.g., from a B+ to an A-).

## **Paper Re-writing Policy**

Any paper that was Quick Edited prior to submission may be rewritten, provided it is entirely rewritten (not merely re-edited). Rewritten papers must be submitted within a week of the original paper being returned. Due to the pacing of assignments, there are no extensions for rewrites.

Submissions of rewritten papers must include a one to two page written summary of how the author revised the paper.

Grades on rewritten papers will replace the original grade.

## **General SLU Syllabus Statements**

### **Title IX**

Saint Louis University and its faculty are committed to supporting our students and seeking an environment that is free of bias, discrimination, and harassment. If you have encountered any form of sexual misconduct (e.g. sexual assault, sexual harassment, stalking, domestic or dating violence), we encourage you to report this to the University. If you speak with a faculty member about an incident of misconduct, that faculty member must notify SLU's Title IX coordinator, Anna R. Kratky (DuBourg Hall, room 36; [akratky@slu.edu](mailto:akratky@slu.edu); 314-977-3886) and share the basic facts of your experience with her. The Title IX coordinator will then be available to assist you in understanding all of your options and in connecting you with all possible resources on and off campus.

If you wish to speak with a confidential source, you may contact the counselors at the University Counseling Center at 314-977-TALK. To view SLU's sexual misconduct policy and for resources, please visit the following web addresses: [www.slu.edu/here4you](http://www.slu.edu/here4you) and <https://www.slu.edu/general-counsel>.

### **Disability Services**

Students with a documented disability who wish to request academic accommodations must contact Disability Services to discuss accommodation requests and eligibility requirements. Once successfully registered, the student also must notify the course instructor that they wish to access accommodations in the course.

Please contact Disability Services, located within the Student Success Center, at [Disability\\_services@slu.edu](mailto:Disability_services@slu.edu) or 314.977.3484 to schedule an appointment. Confidentiality will be observed in all inquiries. Once approved, information about the student's eligibility for academic accommodations will be shared with course instructors via email from Disability Services and viewed within Banner via the instructor's course roster.

Note: Students who do not have a documented disability but who think they may have one are encouraged to contact to Disability Services.

### **Academic Integrity**

*Academic integrity is honest, truthful and responsible conduct in all academic endeavors.* The mission of Saint Louis University is "the pursuit of truth for the greater glory of God and for the service of humanity." Accordingly, all acts of falsehood demean and compromise the corporate endeavors of teaching, research, health care, and community service via which SLU embodies its mission. The University strives to prepare students for lives of personal and professional integrity, and therefore regards all breaches of academic integrity as matters of serious concern.

The governing University-level Academic Integrity Policy was adopted in Spring 2015, and can be accessed on the Provost's Office website at: [https://www.slu.edu/provost/policies/academic-and-course/policy\\_academic-integrity\\_6-26-2015.pdf](https://www.slu.edu/provost/policies/academic-and-course/policy_academic-integrity_6-26-2015.pdf).

Additionally, each SLU College, School, and Center has adopted its own academic integrity policies, available on their respective websites. All SLU students are expected to know and abide by these policies, which detail definitions of violations, processes for reporting violations, sanctions, and appeals. Please direct questions about any facet of academic integrity to your faculty, the chair of the department of your academic program, or the Dean/Director of the College, School or Center in which your program is housed.

### **Student Success Center**

In recognition that people learn in a variety of ways and that learning is influenced by multiple factors (e.g., prior experience, study skills, learning disability), resources to support student success are available on campus. The Student Success Center assists students with academic-related services and is located in the Busch Student Center (Suite, 331). Students can visit <https://www.slu.edu/life-at-slu/student-success-center/> to learn more about tutoring services, university writing services, disability services, and academic coaching.

### **University Writing Services**

Students are encouraged to take advantage of University Writing Services in the Student Success Center; getting feedback benefits writers at all skill levels. Trained writing consultants can help with writing projects, multimedia projects, and oral presentations. University Writing Services offers one-on-one consultations that address everything from brainstorming and developing ideas to crafting strong sentences and documenting sources. For more information, visit <https://www.slu.edu/life-at-slu/student-success-center/> or call the Student Success Center at 314-977-3484.

### **Basic Needs Security**

Students in personal or academic distress and/or who may be specifically experiencing challenges such as securing food or difficulty navigating campus resources, and who believe this may affect their performance in the course, are encouraged to contact the Dean of Students Office ([deanofstudents@slu.edu](mailto:deanofstudents@slu.edu) or 314-977-9378) for support. Furthermore, please notify the instructor if you are comfortable in doing so, as this will enable them to assist you with finding the resources you may need.