Class code: LWSOC-UA 9251-003

Instructor Details:
William A. Cohn, J.D.  
bill.cohn@nyu.edu; bc.cohn@gmail.com (email)  
235355354 (landline)  
777817595 (mobile)  
Office hours: by appointment

Class Details:
Philosophy of Law – Spring 2015  
Wednesdays from 9:00 to 11:50  
Location to be confirmed.

Prerequisites:
None

Class Description:
This survey course will introduce students to jurisprudence, the study of and philosophy of law. It will examine the role of morality in law, comparing and contrasting law and ethics, and law in theory and in practice, asking questions such as: What is law? Is the answer merely subjective? Is law objective? How does law derive legitimacy? Does law have an intrinsic value? An instrumental value? What are the sources of law? How are legal decisions and judgments reached? How should they be reached? How does appellate law differ from the law governing trial courts? How should Constitutional law issues be decided? How does litigation differ from alternative methods of dispute resolution? What are the roles of judges, lawyers, and jurors? How has law changed over time? How has technology impacted our relationship to law? What is the status of law today? Comparative legal systems will be examined, and state and international law will be contrasted. We will consider the primary goals of the law; the institutions and procedures which best serve those goals, and the obstacles to attaining them. The writings of key jurists and philosophers will enable students to delve into core jurisprudential perspectives and debates. Contemporary and emerging perspectives and debates will be examined.

The first half of the course will give students the foundations of knowledge on the subject by means of lecture and assigned readings (from the primary text noted below as well as supplemental readings provided by the instructor). The lectures and the material covered in the text will differ yet enhance one another. The readings from the text will enable informed discussion and debate on that material, and will be applied to contemporary legal issues and debates. The core foundations of the course will be covered; however, the syllabus may be amended per student interest. The second half of the class will be more seminar format, whereby in the concluding classes students, with guidance from the instructor, will lead the learning on their selected and approved research topics.

Desired Outcomes:
Upon completion of this course, students are expected to: 1. Have knowledge of the core legal concepts, history and debates examined in the course (e.g., natural law vs. positive law; legal formalism/positivism vs. legal realism; emerging issues and challenges), and the jurisprudential perspectives and contributions of key jurists and philosophers; 2. Be familiar with the main schools of constitutional interpretation and the relevant issues and debates we examine; 3. Be knowledgeable about the relationship between law and philosophy; 4. Be familiar with the comparative legal systems, methods of legal reasoning, contrast between state and international law, critical perspectives on the law, and be aware of the relevant debates regarding the legitimacy of the law which are addressed in our course; and, 5. Be expert in the approved subject area of their choice, in which they will complete intensive research and a term paper during the semester.

Assessment Components:
Class assignments, participation and attendance: 10% - Attendance is mandatory; participation means engaging the class and course material in ways which are helpful to our learning. All assigned work is due at the beginning of class, and each week’s readings and other assigned work must be completed before class so that students can offer their informed perspectives on the material covered in class.  
Midterm exam: 25% - a closed book midterm exam will be given in week 8 which will test the students mastery of the material covered in lecture and readings, and their ability to apply the theory learned to real-life and hypothetical issues/fact-patterns. Ideally, students can provide their well-informed and well-reasoned perspectives on legal challenges and controversies integrating their knowledge gained in our course and applying it as called for.  
Term Paper 33% - a 3,500 word work of original scholarship on a topic selected by the student and approved by the instructor will be completed by the student and submitted to the instructor in both hard copy and digital format by Week 14 of the course. Partial assignments intended to help the students to produce high quality term papers will include completing an annotated bibliography and an abstract, as well as providing periodic status reports on their research topic. The term paper is expected to do more than simply report findings, but also to develop and articulate a thesis in which the student presents a well-informed and well-reasoned argument on a jurisprudence challenge or controversy of contemporary relevance which will interest and enhance the learning of the class. The bibliography and source citations


should include scholarly sources such as law review and other scholarly journal articles, treatises, texts, appellate rulings, and legal briefs. Ideally, the paper will integrate into its analysis other course learning.

Presentation 12% - Toward the conclusion of the class, each student will deliver a 50 minute final presentation on their research topic, which will provide the class their final research questions, thesis, key findings, and discussion questions. Students are expected to engage the class in discussion and debate rather than to talk at us. Ideally, the presentation will integrate into its analysis other course learning. Partial status reports will enable students to get feedback on their topic from the class throughout the semester in order to help them to deliver high quality instruction and presentations on their research topic. Final Exam 20% - a closed book final exam will be given Week 15. The comprehensive final exam will cover all the material covered in the course during the semester. The final exam will test the students mastery of the material covered in lecture, readings, presentations, discussions and debates, and their ability to apply the theory learned to real-life and hypothetical issues/fact-patterns. Ideally, students can provide their well-informed and well-reasoned perspectives on legal challenges and controversies. Failure to submit or fulfill any required course component results in failure of the class.

Assessment Expectations

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<tr>
<th>Letter Grade</th>
<th>Percent (%)</th>
<th>Generally Accepted Meaning</th>
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<tbody>
<tr>
<td>A</td>
<td>95-100</td>
<td>Outstanding work</td>
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<tr>
<td>A-</td>
<td>90-94</td>
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<tr>
<td>B+</td>
<td>87-89</td>
<td>Good work, distinctly above the average</td>
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<tr>
<td>B</td>
<td>83-86</td>
<td></td>
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<tr>
<td>B-</td>
<td>80-82</td>
<td></td>
</tr>
<tr>
<td>C+</td>
<td>77-79</td>
<td>Acceptable Work</td>
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<tr>
<td>C</td>
<td>73-76</td>
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</tr>
<tr>
<td>C-</td>
<td>70-72</td>
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<tr>
<td>D+</td>
<td>67-69</td>
<td>Work that is significantly below average</td>
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<tr>
<td>D</td>
<td>63-66</td>
<td></td>
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<tr>
<td>D-</td>
<td>60-62</td>
<td></td>
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<tr>
<td>F</td>
<td>0-59</td>
<td>Work that does not meet the minimum standards for passing the course</td>
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Grade conversion

Absences only for medical reasons and for religious observance will be excused. To obtain an excused absence, you are obliged to supply either a doctor's note corroboration of your illness by a member of the housing staff (either an RA or a Building Manager). To be excused for religious observance, you must contact the instructor and the Associate Director via e-mail one week in advance of the holiday. Your absence is excused for the holiday only and does not include days of school associated with the holiday. Unexcused absences will be penalized with a two percent deduction from your final course grade for every week of classes missed.

Late Submission of Work

Work submitted late will be accepted at the discretion of the instructor. If accepted, it will be marked down due to its lateness. The extent of the markdown will be at the discretion of the instructor. The point here, as in all grading, is fairness to all students. Students who take extra time, beyond the deadline, to complete an assignment should never gain an advantage over those who completed the assigned work on time.

Plagiarism Policy

According to the Liberal Studies Program Student Handbook, plagiarism is defined as follows:

Plagiarism is presenting someone else’s work as though it were one’s own. More specifically plagiarism is to present as one’s own a sequence of words quoted without quotation marks from another writer, a paraphrased passage from another writer’s work; facts or ideas gathered, organized and reported by someone else, orally and/or in writing. Since plagiarism is a matter of fact, not of the student’s intention, it is crucial that acknowledgment of the sources be accurate and complete. Even where there is no conscious intention to deceive, the failure to make appropriate acknowledgment constitutes plagiarism.

The College of Arts and Science’s Academic Handbook defines plagiarism similarly and also specifies the following:

“presenting an oral report drawn without attribution from other sources (oral or written), writing a paragraph which, despite being in different words, expresses someone else’s idea without a reference to the source of the idea, or submitting essentially the same paper in two different courses (unless both teachers have given their permission in advance).
Receiving help on a take-home examination or quiz is also cheating – and so is giving that help – unless expressly permitted by the teacher (as in collaborative projects). While all this looks like a lot to remember, all you need to do is give credit where it is due, take credit only for original ideas, and ask your teacher or advisor when in doubt. “Penalties for plagiarism range from failure for a paper, failure for the course or dismissal from the university.” (Liberal Studies Program Student Handbook)


Bibliography: Here are suggested sources for your research and further learning. Many of these can be found in the NYUP library. Your instructor can help you to find any sources noted which are not in the library. Readings will be assigned from the text noted above. Additional readings will be assigned from other sources including handouts given by your course instructor from current periodical literature and the texts noted below:


Fuller, Lon L. (1969). The Morality of Law, Yale University Press, and his other writings.


See also the books cited in the Bibliography of our primary text by Simon, at pp. 498-507.

Additional learning resources include: Lexis/Nexis; Westlaw; Ebsco; JSTOR; treatises; Findlaw.com, oyez.org.

Apply appropriate media literacy skills to the worldwide web so as not to fall prey to the great volume of poor quality information and ideas on the Internet. Just because it’s posted on the Internet doesn’t make it true. Find good scholarly sources to inform your research and analysis.

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<tr>
<th>Internet Research Guidelines</th>
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<td>None</td>
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<tr>
<th>Additional Required Equipment</th>
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<tbody>
<tr>
<td>Jurisprudence – An inquiry into law and philosophy</td>
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<tr>
<th>Session 1</th>
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<tr>
<td>Wednesday, Feb 4</td>
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<tr>
<td>Ethics vs. Law; Deontology vs. Teleology, and other moral reasoning approaches</td>
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<tr>
<td>Read the introduction to our text and see the table of contents (vi-xiii), Explore topics that interest you for your individual research/term paper.</td>
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<th>Session 2</th>
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<td>Wednesday, Feb 11</td>
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<tr>
<td>From Aristotle to Cicero, Kant to Kafka, and more (Langdell, Holmes, Dworkin, Hart, Posner, Brennan, Fuller, Bell, MacKinnon)</td>
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<td>Read Chapter 1 of our text, especially pages 1, 4-6, 12-14, 19-29. Give the instructor a list of three proposed term paper topics, in order of preference, along with the completion of the following three sentences: 1. I am in the class because…….; 2. What I’d really like to learn about in this class is…….; 3. I’d like the instructor to prepare lectures on the following topics which are not on this syllabus…..</td>
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<th>Session 3</th>
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<td>Wednesday, Feb 18</td>
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<td>Whose Law? Aristotle and other key thinkers on the nature of law and morality</td>
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<td>Inquisitorial vs. Accusatorial justice; the significance of the presumption of innocence; due process</td>
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<tr>
<td>Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the instructor for this week.</td>
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Session 4
Wednesday, Feb 25

Goals of a judicial system; law systems and institutions; how judges decide cases
Common vs. Civil law, *stare decisis*, the adversarial justice system, law and facts, litigation vs. ADR

Read Chapter 3, especially pp. 102-110, 118-121, 129-147.

Hand in an annotated bibliography to the instructor listing 5 or 6 key sources providing diverse perspectives on your research topic, with a sentence or two for each indicating how they help you in answering your research question.

Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the instructor for this week.

Session 5
Wednesday, March 4

Comparative law case studies and issues (emphasis on differences between Europe and the U.S.): the role of religion in law; methods of dispute resolution; law and economics, psychology, property rights, and corporations; remedies and their significance (for instance, U.S. Tort law vs. Czech Civil Liability law and their respective damages at law available to injured parties). Also, how to do legal research and read briefs & judicial decisions.

Read articles and other materials provided by the instructor for this week. See also Simon chapter 5, especially pp. 215-217, 225-226, 229-230, 246-250, 258-261, 264-268.

Give the instructor and present to the class a status report with: 1. Your term paper research question(s); 2. Your working thesis (theses); Your draft abstract, justifying your topic; 4. Your key findings and questions thus far; 5. Resources you have found particularly useful thus far.

Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the instructor for this week.

Session 6
Wednesday, March 11

International Law & The Rule of Law: History and debates (do they exist? an illusion? an aspiration?)

Review pages 34-48 in the text, and read "Why International Law Matters" by Richard Falk and the other articles and materials provided by the instructor for this week, including the views of John Bolton and John Yoo for different perspectives on the legitimacy of international law.

Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the instructor for this week.

Session 7
Wednesday, March 18

Law as a means or an end? Intrinsic vs. instrumental value: some contemporary case studies of this debate (the 'Global War on Terror', Global warming, Free Speech challenges, national security, nuclear proliferation, etc.)

Read Chapter 5, pp. 258-267 and skim pp. 215-257. Read "Degradation of The Rule of Law in response to Terrorism: A Failed Approach" by William A. Cohn

Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the instructor for this week.

Session 8
Wednesday, March 25

Midterm exam

Review all course material covered thus far and be rested and ready to write your closed book midterm exam.

Session 9
Wednesday, April 1

Constitutional law and its interpretations (Formalism vs. Realism revisited with contemporary applications; federalism, executive power, judicial review and other relevant controversies and debates)

Read Simon pp. 162-165, 170-173, 176-177, 186-191, 200-203, 213-214 & articles given by instructor for this week.

Sign up for a presentation date (Week 11, 12, 13 or 14) and give status report and get feedback on how best to teach and present your learning on your research topic

Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the instructor for this week.

Spring Break
April 6-10

Session 10
Wednesday, April 15

Criminal Law: Responsibility and Punishment


Status reports on concluding our term paper research and writing and our presentations

Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the instructor for this week.

Session 11
Wednesday, April 22

Perspectives on freedom, liberty, equality, fairness and the law – an application to individual privacy and the surveillance state in the technological age (the NSA case study – freedom to be left alone?); the Right to be Forgotten? Is technology making law obsolete? Is American law and its enforcement racist?

Read Simon pp. 289-290, 313-318, 325-326, 334-340, 357-358, 362-365, 373-374, 386-392, 404-405, and handouts given by instructor. Think about the Qs raised by the instructor.

Prepare a handout summarizing your final research findings to distribute to the class. This will include: 1. Your research question, and a statement of why it is a worthy question for us to consider (this may be something akin to an abstract, justifying your topic); 2. Your thesis statement; 3. Your key findings; 4. Discussion/debate Qs for the class; and, 5. Suggested resources for further learning on the topic.

Student-led instruction/presentation. Readings assigned by student presenters. Prepare your well-informed, well-
reasoned views on the discussion/debate Qs given by the students presenting this week.

**Session 12**  
Wednesday, April 29  
Law & Justice debates: theory applied to contemporary hot-button issues (the death penalty, abortion, gun control, euthanasia, affirmative action/positive discrimination, etc.)  
Read pp. 334-340, 473-475, 485-494. Think about the Qs raised by the instructor.  
Student-led instruction/presentation. Readings assigned by student presenters. Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the students presenting this week.

**Session 13**  
Wednesday, May 6  
Student-led instruction/presentation. Readings assigned by student presenters. Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the students presenting this week.  
Submit to the instructor a proposed final exam essay question which you would like to write about.

**Session 14**  
Wednesday, May 13 (last day of classes)  
Student-led instruction/presentation. Readings assigned by student presenters. Prepare your well-informed, well-reasoned views on the discussion/debate Qs given by the students presenting this week.  
Review all course material to see if you have any questions in preparation for the final exam.  
Submit to the instructor a suggestion to improve this course.

**Session 15**  
Wednesday, May 20  
Final exam  
Review all material covered in the course, and be rested and ready to write your closed book final exam.

**Classroom Etiquette**

- Come to each class on time and prepared.
- Do not delay in doing your work. Begin right away! Ask for help if you need it! You are the key to your own success (or failure). Plan to spend at least 7 hours each week outside of class working on your assignments for this course.
- Be an interested and engaged participant in your education. Start your individual topic exploration right away and confer with your instructor during Week 1. If you miss classes or are “asleep on the job” your grade will be adversely affected.
- All assigned work is due at the beginning of class. Proofread all your work before handing it in.
- Attendance is mandatory. If you miss classes it will hurt your grade.
- If you miss a class you are responsible for all the material covered and assignments given in your absence. Get that information from your classmates, and then, if you still have questions, ask your instructor.
- Treat your classmates with respect. Help, do not hinder, our learning.
- All written work must follow appropriate format style. Cite all sources and keep a hard copy of all sources cited. Please note – websites constantly change their content, so all web sources must cite the date retrieved.
- Ask questions if you need help. You are responsible for your learning and your instructor is glad to help, but you must take the initiative to keep up.
- Do original work in this course. Any student who plagiarizes or tries to use work submitted for another course will receive an F. It is fine to build upon, but not to duplicate previous work. If you have any questions about what constitutes plagiarism ask your instructor for and complete the How To Avoid Plagiarism exercise.
- In the event of illness or emergency, contact your instructor IN ADVANCE to determine whether special arrangements are possible.

The University’s rules on academic dishonesty (i.e., cheating, plagiarism, submitting false information) will be strictly enforced. **It is your responsibility not to be a plagiarist, and if you fail to fulfill that responsibility the consequences will be severe.**

**Required Co-curricular Activities**

None at present, although the instructor may require attendance at or participation in a talk, conference, or other event should it seem worthy.
Delve into the fascinating subject matter of our course in each and every possible way in order to further your learning and appreciation of the many ways in which law and philosophy apply to the world around you. Your instructor will advise you of relevant community events which you are encouraged to attend, and you are asked to do the same in order to enhance the learning of the entire class.

Prepared December 29, 2014 by Prof. Cohn