

First Day Assignment for Jurisprudence

We will hold our first class on Tuesday, January 10 at 3:00pm. To be prepared for this class, you should complete the following:

- (1) Purchase the two required texts for this course -- Chaim Perelman, *The Realm of Rhetoric* (William Kluback trans., 1982) and Frederick Schauer & Walter Sinnott-Armstrong, *The Philosophy of Law: Classic and Contemporary Reading with Commentary* (1996).
- (2) Read pp. 1-11 of *The Philosophy of Law*
- (3) Sign up for the course TWEN page
- (4) Download and skim the latest course syllabus (will post by January 6)
- (5) Download and read the Declaration of Independence (posted on TWEN by January 6).
- (6) Review the **Class 1 Study Questions** listed below and come to class prepared to discuss them

I look forward to meeting everyone in the New Year!
-CPS



Study Questions for Class 1 (1/10/17)

A. Philosophy of Law (pp. 1-11) – What is Law? & The Theory of Natural Law

1. The authors describe a debate between legal philosophers HLA Hart and Lon Fuller over whether there is a necessary connection between law and morality. Both philosophers agreed that Nazi Germany had a morally flawed “legal” system. Yet while Fuller argued that the Nazi system was not really “law” at all, Hart maintained that the Nazis did have “law” and that it was wicked. What competing schools of jurisprudential thought do Fuller and Hart represent? What strategic reasons did the philosophers give for adopting their competing definitions of “law”? Who do you think has the better argument?
2. On p. 5, the authors describe American law professor Philip Soper as suggesting that defining the concept of law asks us to answer an “ontological” rather than “normative” question. What is the difference between “ontological” and “normative” questions?
3. On the same page, the authors describe legal philosopher Jules Coleman as approaching the nature of law as a fundamentally “conceptual” rather than “empirical” inquiry. What is the difference between “conceptual” and “empirical” inquiries?
4. On p.11, the authors suggest that “ that “[a]s long as one believes that there are moral requirements that are logically antecedent to enacted human laws... then the starting point of the natural law must be taken seriously.” What do the authors mean by this? Do you agree?

B. Declaration of Independence

1. Consider the idea that the Declaration of Independence (DOI) advances an *argument* and that this is a classic *natural law* argument.
 - a. What is the thesis of the argument advanced by the DOI? Is it an ontological or normative thesis?
 - b. What are the conceptual premises of the DOI’s argument?
 - c. What is the empirical evidence adduced to support the DOI’s argument?
2. Who do you think the intended audience is for the argument made in the DOI? Do you think this audience would be persuaded by the argument? Why?