

CCIV 221z: Whose Rights? Law, Personhood, and Democracy, Ancient & Modern
Mon/Tu/Wed/Th/Fr: 10:00am-12:00pm; 1:30pm-3:30pm – Online Synchronous

Class Meetings: Jan 4 – Jan 18

Reading Period: Jan. 19; Exam: Wed. Jan 20

Student Hours: TBD for Jan. 9-10 and Jan. 16-17

Prof. Eirene Visvardi [evisvardi@wesleyan.edu]

Legal texts--law codes, decrees, and edicts, juristic discussions, law court cases--help us understand the history of legal thinking and strategy, and the construction of constitutional frameworks. Yet Greek legal sources offer something more than a history: Although these texts in many ways served as the foundation for European legal systems, they nonetheless offer radically different ways of thinking about concepts such as private and public, rights versus responsibilities, and the possibility of freedom and happiness--some more progressive than our own. In an era when many of our institutions and conventions appear open to challenge, the classical sources offer alternate legal and social ways of thinking, and new tools for understanding our own time.

This course will provide an introduction to legal thinking in classical antiquity and, drawing from a range of sources, will speak to the intersection of constitutional frameworks with political theory. Through laws, narratives, and case studies, we will examine Greek approaches to thorny legal issues that are still contested today: the right to trial, women's rights, democratic (dis)enfranchisement, torture and confession, imprisonment, capital punishment, immigration and citizenship, and the "equity" of law, among others. The ancient sources will be brought into dialogue with current cases and debates. We will also explore the construction of constitutional frameworks and see how these are deployed alongside religious beliefs and collective mores to cultivate "civic thinking".

On the last day of the course we will hold a mock trial.

[For Classics/CCIV Major requirements, this course falls under the History/Social Justice track]

Required Books (hard copies preferred)

*Please use these particular translations

1. C. Carey (2011) *Trials from Classical Athens*. 2nd Edition. (Routledge Sourcebooks for the Ancient World) Routledge
2. P. Burian and A. Shapiro (2011) *The Complete Aeschylus: Volume I: The Oresteia* (Greek Tragedy in New Translations). Oxford University Press
3. Brickhouse, T.C. and Smith, N.D. (2001) *The Trial and Execution of Socrates*. Oxford Univ. Press

Expectations, Requirements, Evaluation

Our goal is to acquire knowledge of particular laws, procedures, legal practices, and theories in classical antiquity; to situate legal thinking and understand it as part of its political context; to think critically about the Greek legal and democratic system; and to bring this knowledge into dialogue with law, legal practice, and political theory in contemporary US. Your performance will be assessed based on your engagement with our materials on all these levels. While the course will incorporate mini-lectures, it will be primarily conducted as an immersive seminar that will build on group discussion and collaboration. Grades will be based on the following:

Participation: 30%

Throughout the course we will be reading closely legal sources, narratives, and scholarship and critical theory. Participation will be crucial for our collaborative examination of these works, namely active contribution of your thoughts on the assigned readings and of the exercises assigned for class time (e.g. moodle posts, outlines of cases etc)

2 Short Response Papers: 20% (10% each)

3-4pages, double-spaced, 12p font

Response 1: on a Greek reading (case, play etc) of your choice

Response 2: on a non-antiquity focused reading (modern case, theoretical approach) of your choice

Responses are due on Moodle by midnight on the evening *before* the class during which we will discuss the readings of your choice.

A detailed rubric of what to cover in response will be provided separately.

Deadlines:

At least one response has to be submitted by Thursday, Jan. 7

The second response can be submitted on any day and no later than Thursday, Jan. 14.

Collective Glossary/Case Book: 15%

We will break down the class into groups that will create a shared Glossary on Google docs.

The Glossary will include a) brief definitions (often easy to cut and paste from my class materials or copy from readings); b) some case examples, potential complications, modern parallels

Teams will be evaluated on completeness. We will specify strategies for entering and checking entries within and across teams and for grading each other, so that no single person carries the whole team's work.

In-Class Mock Trial of Socrates 20%

During our last meeting we will hold a mock trial of Socrates, based on materials found in the book *The Trial and Execution of Socrates*. One group will prepare the prosecution speech, another Socrates' defense, and a third one will function as jurors and will deliberate on the verdict (even though deliberation did *not* happen in the Athenian courts). Evaluation will be based on your use of Athenian law and due process. Bonus points if you manage to incorporate references to contemporary political issues without undermining the integrity of the ancient case. The verdict may be but does not have to be the same as that of the ancients. This is meant to be fun – and it would be great if you could save Socrates from the death penalty too!

Open-Book Exam: 20%

A brief 90min exam: You will be asked to choose from a selection of passages (e.g. 3 out of 4) to discuss the legal issue or theory at stake and the significance of the particular passage.

*** Completion of Assignments**

To get credit for the course it is required that all assignments are submitted/completed (i.e. you cannot skip an assignment because you aced all others).

For students who take the class for Cr/U, the lowest passing grade is the equivalent of a C.

Honor Code

The Honor Code applies to all our academic activities. All students of Wesleyan University are responsible for knowing and adhering to [the Honor Code](#) of this institution. Violations of this policy may include: cheating, plagiarism, aid of academic dishonesty, fabrication, lying, bribery, and threatening behavior. *All incidents of academic misconduct shall be reported to the Honor Code Council—Office of Student Affairs.* Students who are found to be in violation of the academic integrity policy will be subject to both academic sanctions from the faculty member and non-academic sanctions (including but not limited to university probation, suspension, or expulsion). The [Office of Student Affairs](#) has more information. If you remain uncertain about the Honor System, contact me *before* you share your work in class or submit your work for evaluation.

Accommodations

Wesleyan University is committed to ensuring that all qualified students with disabilities are afforded an equal opportunity to participate in, and benefit from, its programs and services. To receive accommodations, a student must have a disability as defined by the ADA. Since accommodations may require early planning and generally are not provided retroactively, please contact Accessibility Services as soon as possible.

If you have a disability, or think that you might have a disability, please contact [Accessibility Services](#) in order to arrange an appointment to discuss your needs and the process for requesting accommodations. Accessibility Services is located in North College, rooms 021/218, or can be reached by email (accessibility@wesleyan.edu) or phone (860-685-2332).

Assignment Schedule*

Subject to revision

*Readings are to be completed *for* the day for which they are assigned. Readings included in the required books will have the designation [Bk] next to the them. All other readings on the syllabus and some additional ones will be posted on Moodle.

** *Always check Moodle side by side with the Syllabus* for your preparation.

On the syllabus, under each day, you will find only the major topics/questions we will address in bold, and the readings and other assignments (ancient sources, scholarship, modern cases/parallels, podcasts, films) for that day.

Our Moodle site will include: themes or questions to help you navigate the readings; information on whether you need to submit posts before the class meets or to bring your reactions to class in forms that they can be shared. Sometimes there will be additional readings or websites (required or recommended) to help you think through the assigned texts.

Week 1

Monday January 4*

Justice and the Law – Introduction

Hart, H.L.A. *The Concept of Law*. Ch.1 “Persistent Questions” pp. 1-13 and Ch. 5 “Law as the Union of Primary and Secondary Rules” pp.77-89

Towards ‘Popular Sovereignty’: Beginnings of Democracy and Litigation: Solon & Cleisthenes

Solon – in Aristotle’s *Athenian Constitution* 5-12

Democratic Inclusions: Citizenship, Liberty, and Equality 1 (Politics)

Herodotus, *Histories* 3.80-82

Thucydides, *History of the Peloponnesian War* – Bk.2, The Funeral Oration

Aristotle, *Politics* 1292b21-34

***Students will be expected to come prepared to discuss these readings on the first day of class. I will also contact the class soon after registration closes to ask for a brief written response to the readings by Hart to be submitted on Moodle by Sunday Jan. 3 at noon.**

Tuesday January 5

Democratic Inclusions: Citizenship, Liberty, and Equality 2 (Litigation)

Demosthenes, *Against Meidias* (selections) [Bk]

Carey, Trials from Classical Athens: Introduction, pp. 1-20

M. Ostwald, “Shares and Rights: “Citizenship” Greek Style and American Style”

Wednesday January 6

Sexual Offenses and the Right of Self-Help; Introduction to the Position of Women

Draco’s Homicide Law; Lysias, *On the Killing of Eratosthenes* [Bk]

Harris, “Did Rape Exist in Classical Athens? Further Reflections on the Laws about Sexual Violence”, pp. 297-332

McKinney, C. (2019) “Sexual Coercion, Gender Construction, and Responsibility for Freedom: A Beauvoirian Account of Me Too”, *Journal of Women, Politics & Policy*, 40:1: 75-96

Selections from the podcast “In the No” on consent, with Kaitlin Prest on Radiolab

Thursday January 7

Crime and Punishment: Self-Help/Homicide, Prosecution, and Trial by Jury (1)

Jury selection, private vs. public cases, evidence and witnesses; intention

Antiphon 1, *Accusation of Poisoning against the stepmother* [Bk]

Antiphon 5, *On the Killing of Herodes* [Bk]

O’Connell, P. (2016) “The Rhetoric of Visibility and Invisibility in Antiphon 5, *On the Murder of Herodes*”, *CQ* 66.1: 46–58

Friday January 8

Crime and Punishment: Self-Help/Homicide, Prosecution, and Trial by Jury (2)

Aeschylus, *Oresteia* --- focus on the third play titled *Eumenides* [Bk]

Solomon, R.C., “Justice v. Vengeance: On Law and the Satisfaction of Emotion”, pp. 123-148

Week 2

Monday January 11

Democratic “Inclusions”: Women (marriage, concubinage, prostitution)

[Demosthenes] *Against Neaira* [Bk]

Medical Approaches to female anatomy (intercourse, pregnancy, disease, abortion)

Hesiod on the Origin of the “female race” – the myth of Pandora

Blundell, R. “Women in Athenian Law and Society”

Kapparis, K. “The Formation and Purposes of Marriage”

Tuesday January 12

Democratic Exclusions 1: Resident Aliens (metics)

Demosthenes 57, *Reply to Euboulides* [Bk]

Lysias 23, *Against Pancleon*

Pseudo-Xenophon, *Athenian Constitution*, 1;4-8.1; 10-12

Kamen, D. “Metics” and “Privileged Metics”

Kasimis, D. “The Metic in and Out of Theory”

Wednesday January 13

Democratic Exclusions 2: Power, Status, and (Judicial) Torture

Osborne, R. “The Economics and Politics of Slavery at Athens”. Pp. 265-279.

Hunter, V. “The Body of the Slave: Corporal Punishment in Athens”. Pp. 154-184

Isaeus, *On the Estate of Ciron* 9-13; Demosthenes, *Against Onetor 1*, 35-38; Demosthenes, *Against Evergus and Mnesibulus* 1-10.

Mirhady, David C., 1996: “Torture and Rhetoric in Athens” (with a response by G. Thür), *Journal of Hellenic Studies* 116: 119–134.

Hunter, “The Prison of Athens: A Comparative Perspective”. Pp. 296-326

Thursday January 14

Democratic Exclusions and the Free Will Today: Torture and Coerced Confessions

Selections from [the Senate Intelligence Committee Report on Torture](#)

Film *The Report* (2019) directed by Z. Burns

Brooks, P. “The Overborne Will – A Case Study” on the *Miranda* rights and coerced confession.

Friday January 15

Rethinking the First and Sixth Amendments and Legal and Social Categories:

Positive/Negative Rights, Private/Public Sphere

Radical Enfranchisement through the Jury Room:

Chakravarti, S. Ch. 3 “No One But You: Jurors and the Internal Standard of Reasonable Doubt” pp.61-80 and Ch. 4 “Guilty, Not Guilty, Nullify: Nullification in the Age of Abolition”. Pp. 91-88

Freedom of Speech and Equality

Justice Brandeis’ Concurring Opinion in *Whitney v. California*:

http://www.columbia.edu/itc/journalism/j6075/edit/readings/brandeis_concurring1.html

Recommended: K. Werhand, “The Classical Athenian Ancestry of American Freedom of Speech”

Week 3

Monday January 18: Wrap-Up and Mock Trial

Tuesday January 19: Reading Period

Wednesday January 20: Final Exam