

I am Kenneth Ehrenberg, philosopher of law at Alabama. Ask Me Anything

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Abstract

Proof: <https://twitter.com/KenEhrenberg/status/780400465049706496> I direct the jurisprudence specialization at the University of Alabama and work in the areas of the nature of law and its relation to morality, authority, and the epistemology of evidence law. My first book, *The Functions of Law*, was just published by Oxford, the intro chapter is available online at <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199677474.001.0001/acprof-9780199677474-chapter-1> Ask Me Anything Edit: So it's now 1pm Central (2pm Eastern) and I have to take our one-week old baby to the doctor for her first checkup. If you want to upvote the questions you want to see answered, I can try to answer a few more later when I get back. Thanks for some great questions! This has been a blast!

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KEN_EHRENBERG [R/SCIENCE](#)

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Ask Me Anything

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What do you think of the jury system? I see a great need for citizen participation in the trial process, but I also believe the average citizen is ill-equipped to be making such judgments.

[AccreditedAdrian](#)

There are lots of ways to make it better. It seems like a right that a lot of people take very seriously and I think there's merit to the idea that judges aren't necessarily any better at assessing facts than an average lay person. At the same time, there have been such noted scientific advances on (for example) the unreliability of eye-witness testimony, that perhaps one way forward would be to get more training for jurors before they serve. Of course, that would also add to the time they have to serve, which would be another problem to solve. Bentham thought you should just throw everything at them and then let the lawyers argue over how to assess reliability.

Wealthy participants in the legal system can afford more and better lawyers, which objectively allows for a higher likelihood of performing criminal activity and receiving less or no punishment. Is there any meaningful, implementable way to change this?

[pokerlogik](#)

[Progressive fines](#) (which I believe made the front page recently); better support for law grads wanting to do public defense; perhaps make all criminal defense public (and paid reasonably well). Obviously, some of these are more implementable than others. But given the woeful underfunding of public defense in the U.S., just about anything would be an improvement here.

It is often stated that ignorance of the law usually can't be used as a defense (albeit due to practical

reasons, i.e. anyone can claim ignorance of law to "get away" with a crime), but given the abundance of laws (especially those that don't seem self-evident) and the lack of education on the part of the state to at least make those laws somewhat known (at least from where I am from), would you not say that incriminating a person of breaking such a law is immoral on the part of the state?

[redditor0x1](#)

Not so long as the state publishes the law in a way that is reasonably accessible. If we turn to morality for a moment, we don't generally excuse immoral action because of ignorance, although we might lessen our negative judgment somewhat depending on the situation. The intuition there is that a reasonable person should be able to figure out what is right and wrong. Clearly that isn't the case with the law. But we do expect that where the law is a reflection of a moral requirement, people shouldn't be doing that stuff anyway. And where the law is not a reflection of an obvious moral requirement, the onus is on the person to be reasonably educated in the laws that impact what she is contemplating, or to consult an attorney before going forward. Now, we could reasonably complain that the education system should be geared better toward civics and learning the basic laws that everyone would expect to encounter in the course of their daily life. So, certainly, to the extent that the state is failing to educate its students adequately in those areas, there is some injustice in enforcing certain laws.

Knowing what you know and no doubt having seen much and heard many others and given a "magic wand", what changes would you think best implemented in the US legal system?

[winstonsmith7](#)

Gosh, there's so much that can be improved. I've already mentioned a couple of things in other posts. Certainly better funding for public defenders would be top of my list. Trying to treat addiction as a medical rather than a legal problem would be another; getting rid of solitary confinement and capital punishment; not treating juveniles as adults. But I should also point out that my area of expertise is in the law everywhere we find it, so I'm really no more authoritative on legal reform than anyone else would be. And I acknowledge that some of these opinions are hitched to my personal political beliefs (although I think I have good arguments for them).

Where does the power of the law come from, have there been significant detractors from Dworkin?

[Guettari](#)

We need to distinguish power from authority. Power is the ability to get people to do what you say. Lots of people and institutions have power. Authority is having the right to get people to do what you say. So if you are asking about authority, then I follow Raz in basically thinking that authority is legitimated when it helps those subject to it to do the best thing in situations where they can't see that for themselves (with some caveats). There are lots of significant detractors from Dworkin. I'm a detractor (not sure if I'm significant yet, though).

Do you have any thoughts on the social contract theory in terms of the Hobbesian tradition?

[Hippopotamidaes](#)

So, insofar as the social contract theory is an explanation and justification of legal authority, then I tend to disagree, preferring theories that explain how authority can be justified without relying upon the consent or voluntary submission of the subjects. (Of course, I much prefer systems where we consent, I just don't think those are the only ones where authority can possibly be legitimate - especially in

emergencies.) Hobbes is notable because of how tight his arguments appear in favor of a totalitarian state. Most people in the liberal tradition we've inherited prefer Locke. But the problem with Locke is that he appeals to God at a key step in his argument, which doesn't sit well with modern readers for obvious reasons. I guess if you asked me what a state of nature would look like, I'm more inclined to Locke than Hobbes, which means the real problem is the lack of an impartial judge to settle disputes, as we're not necessarily going to simply kill each other on sight. But I don't think either is right in that there is no meaningful way in which anyone has consented to be in a state or under a government (except perhaps naturalized citizens, some officials, and perhaps voluntary members of the military).

I am a music student at the university of alabama! It's cool to see an ama from someone right across the street! My question is: what is your take on the Brock Turner case? Should he have gotten off as light as he did?

[ZiggyZayne](#)

Roll Tide!

It's definitely hard not to have the reaction that the penalty was way too light. At the same time, I try to remain mindful that in just about every case you can possibly imagine, the legal complexities are much more numerous and nuanced than what is reported in the press. So I try not to make judgments merely on what I read online and see in the press.

Is the US Constitution a "living, breathing" document with flexible meaning or should it be strictly interpreted only by the actual words written and other strict guidelines such as original intent?

[Sixsignatory](#)

Both. It depends on what kind of judge you are. I'm not a judge. If I were, I'd probably be more on the 'living Constitution' side of things. But it certainly underscores the fact that when potential Supreme Court judges are being grilled in the Senate and by the press and say things like "I only follow the law," they can't really mean that. A judge's interpretive position is itself a reflection of that judge's moral and political beliefs. I guess I follow Dworkin on that (if not much else).

The law, an old decanter that has had its contents dumped and refilled several times as a result of the whims of its owners. Is there morality in the law, or is the law just a way to maintain order? Is it a tool or is it a societal phenomenon?

[NameHere247](#)

All of the above. In my book I argue precisely that it is both a tool and a 'societal phenomenon' (although I call it an "institution"). There can't help but be morality in the law, if only because there are moral implications for just about everything that is done in and by law. We all hope that as a result our laws reflect our most basic moral beliefs as much as possible. But it's also clearly a tool for the abuse of power and the perpetuation of corruption. It's just going to have to be a never-ending quest to make it better as much as possible and hope that we can get the kind of officials who will be capable of improving it rather than making it worse.

Tell me more about your book? would i need extensive philosophical knowledge to comprehend it?

[menohero](#)

I would hope not. But I do admit there can be some technical sections here and there. Take a look at the [introductory chapter](#), and give it a try. Lots of things that are technical or confusing can be looked up on a number of relevant pages at plato.stanford.edu

Also, see [the announcement post](#) for 30% codes.

Ben Franklin said "laws without morals are in vain," but where should society draw the line at "legislating morality?"

[Sneekey](#)

Really great and tough question. Clearly we need to have some respect and reflection of morality in our laws, but we also can't legislate every moral stricture. (Imagine if there was a law against lying in every situation.) I don't know that I have a good answer about where to draw that line, but I imagine that we have some shared social values and goals that we place at the center of our legal system and it is those communal values that we use to guide us in drawing the line, with the expectation that there will always be people pushing from either side of the line and we'll just have listen to those arguments and react in the way we think is best for everyone. I know that's a bit weak as an answer though.

Do you think that government agents have moral parity with non-government agents? Or do you think they exist on a different ('higher', 'lower') moral plane than the rest of us?

Common example: Are the rules for when I can kill a non-government agent (self-defense, etc.) co-extensive with when I may kill a government agent? Most seem to think the rules are more restrictive vis-a-vis government agents.

[coffeeandbitters](#)

Let's think about this in terms of status. The law gives a special status to gov't agents, so it imposes higher punishments for killing them legally speaking. A separate question is whether this is moral or not. I don't think that gov't agents are morally more valuable in a basic sense. But there might be something more morally wrong in killing a gov't agent for trying to do her job if that job is especially important and justified (at least when compared to some more mundane reasons for killing people). So the laws treating those killings differently MIGHT be morally justified. And it might also depend on the situation whether the moral justification comes into play, even though the law itself by necessity is written in broad strokes. So such a law might be justified to pass and implement even if on some occasions it would be morally unjustified to prosecute someone under it.

This question has bothered me since the 08 housing crisis. How moral/ethical are congressional bailouts?

[DonutHoe](#)

If it saves the entire economy from taking a nose-dive that would make everyone much worse off, I would say they are very moral/ethical. (Of course, it's open to debate whether they actually did save the economy from that.) I do admit there's a moral hazard, however, when people know they can get a bailout, so there should be more consequences for the people that needed it.

I feel that morals and laws are not associated anymore.

Morals are unwritten; good versus evil, right versus wrong. Personally my morals are majorly based on the Bible. As an Alabama, Bible Belt, Southern Baptist, my upbringing was filled with the Beatitudes.

Laws are written. They are posted. Laws seem cold and matter of fact. The biggest fear of breaking the law is getting caught. I would say a majority of people in the US break the law everyday. Speeding, texting and driving, drinking and driving, jaywalking and those pesky laws that are so old they are obsolete.

I feel the difference is:

Moral - Do unto others as you would have them do to you. I do not want killed, raped, stolen from, treated with disrespect. Love one another, give respect, help your fellow man out.

Law - Killing is illegal and comes with a sentence in prison. Killing, depending on factors, can be a few years or death. You have years before trial, you can make a plea bargain, you can turn states evidence on a different crime, the options of getting away with murder is vast if you even get caught.

How do you see the fracturing of Morals and Law affecting the country?

[rielaine](#)

There are two criticisms here: one of the content of the law and one of how it is implemented and applied. The vast majority of laws that do impact your moral beliefs in their content are probably in agreement with those moral beliefs: don't kill, don't rape, don't steal, etc. There are then some laws that are more mundane and might run afoul of some of your beliefs. But we tend to focus more on those points of disagreement than we do on the points of agreement (as there's nothing really to call our attention to those points of agreement). Then we also find lots to criticize when the law doesn't operate as it should by its own terms or has to make compromises (especially in those areas we think are important) in order for it to operate reasonably given the constraints of time and money. This isn't a defense of those compromises; some certainly are very bad. But the system will never be perfect. All we can do is argue for positive change along with what we feel is important and hope that others will listen and agree.

No question here; I just wanted to thank you for your awesome Justifying Legal Authority course 4 years ago. It really opened my eyes to the field in general, and I still read philosophy in my spare time for fun. Keep being awesome!

[Synaps3](#)

Cool! Thanks for the shout out.

Having grown up in Alabama my whole life, I never thought much of UA. Now that I'm planning on applying to law schools, I'm considering it a lot more. Do you think the law school is good, and for students that attend, are their job prospects good?

[Fireandiceforever](#)

Alabama is an excellent law school. That's not just me talking, check out the latest US News rankings. But it's also always a good idea to think about where in the country you want to practice. If you want to stay in Ala. or the south east, then UA would be a great place. It would certainly have sway elsewhere in the country as well. But it's also true in general that the higher on the list you go, the more your geographical prospects widen out from where the school is located.

What, in your mind, is the central thesis of legal positivism?

Is it, as Gardner argues, that legal validity is about sources and not merits or, rather, is it about norms being derived from social facts?

[r55r99](#)

I'm not sure they're really saying different things at the end of the day. If legal validity is about (social) sources then you are saying that LEGAL norms (not all norms) are derived from social facts. The thing that I find most interesting about philosophy of law is the need to tackle the fact/norm divide.

What is the worst case of racism you have personally seen in the field of law?

[pokemonandpot](#)

Ethnic cleansing laws like were seen in Nazi Germany, and slavery. (Sorry, that's two cases.)

What are your thoughts on podcasts like Serial & Undisclosed and the attention that they bring to problems in the judicial system?

[charlietango13](#)

I'll have to check them out on my drives to Tuscaloosa and back.

should the principle of double jeopardy be abolished? (As many corporations and wealthy people take advantage of it)

[woodrow2019](#)

No. This is another one of those legal principles that is really important and there are better ways of solving the problems we have with the way things are running than abolishing the principle. Double jeopardy is an important protection for defendants to force the state to bring its case only when it has amassed a sufficient amount of evidence and also so that a person doesn't have to be permanently worried that the state will keep prosecuting if more evidence might surface in the future. There is also the idea that the factual determinations of the case, once made, shouldn't generally be revisited as those are now the facts recognized by the law. But we already have ways around some elements of double jeopardy: describing the same action as multiple crimes can allow the state (or the Federal Gov't) to charge someone when the person has already been acquitted of another crime. This is in the news recently with the possibility of Federal civil rights charges for acquitted police officers accused of excessive force.

What do you think the practical implications of legal philosophy are? What particular legal issues does your work relate to? (For the latter, I'm thinking of things that are current societal issues)

[ajfmaizy](#)

I admit that my particular work is fairly impractical, although many of those in my neck of the woods like to think of that as an advantage. That is, we like to see ourselves as explaining law everywhere it can be found. So if our theories have a lot of practical implications, then we're not being universal enough in our treatment. However, there are a couple of examples in which a given debate might have some practical implications. One example from my book is to look at what are sometimes called tax

protestors, people who believe that the income tax is unconstitutional or otherwise legally invalid and that the courts have simply been making mistakes in upholding it. Any theory that says that legal validity is simply what the officials say it is overall will tend to say that these people are making a mistake about the nature of legal validity (with the implication that it is correct to laugh their arguments out of court), while any theory that allows legal validity to have a status independent of what the officials say would allow that their arguments could have some weight. I tend to be on the side that says that legal validity is just what the officials treat as legally valid.

Did you happen to watch the recent HBO limited series, "The Night of"? I'm not too familiar with the U.S. judicial system but that show painted a pretty murky picture of the types of moral decisions faced by all those involved in the court system. In the end, I was left feeling that there has to be a better way to achieve justice and truth in an ethical, effective manner. Of course, this is just a TV show, so I'm not sure how accurately it reflects reality. But my question is, do you think there are any models of law that would be better than what we have in the U.S.? Maybe from a different country/culture/time period?

[hunterni](#)

I didn't see it yet, but it's on my list of things to watch. There are definitely better systems out there and ways we can improve. A lot of what we do with criminal law, poverty, drug law, the elderly, taxes, bureaucracy, etc. can certainly be better. I wouldn't point to one particular system as being better in everything (although I always am interested to hear about new ideas in some of the Scandinavian countries). Rather, the most important thing for us would be to have a little more humility and be willing to learn from other systems when they find something that works better. But I also admit that our political system and the current state of polarization in our electorate will make that very difficult.

Does the existence of law negate the concept of being post-history?

[nachopartycandidate](#)

Not sure I understand. Are you asking whether having a legal system means that we can't say history is over in the Fukuyama sense? Or that we don't need to learn from history if we have law?

I took courses covering similar material from Wendy Gunther-Canada, Adamu Shauku, and Theodore Benditt at the University of Alabama at Birmingham (and am now actually seeking admission at UA law) are you familiar with any of them?

If anyone is interested in this subject matter, I highly suggest jumping in. Super interesting stuff.

[JohnnyBoyGhstin](#)

I really hope to have more of a chance soon to meet my UAB colleagues and we've discussed this recently at UA.

I hope this isn't just bias, but it feels like Alabama State politics is well above average in the corruption / Good-ol-boy / nepotism / graft areas, and it doesn't seem like it has been improving. Do you see a path to it getting better in the future?

[Thoguth](#)

The path is the same everywhere: publicity and voter discontent. But some people are harder to

convince that things can be better or they feel that they are personally benefiting from the graft (or that their group is benefiting over other groups).

Do you agree with Plato's or Aristotle's definition of justice in the Republic and Politics respectively and why?

[ashtonphua93](#)

I'm not sure either is really on the right track to be totally honest. But the closest my work comes to that question is whether their disagreement (and others about justice) makes it something difficult to measure law by.

What are your thoughts on Presidential candidates promising to get Supreme Court Rulings reversed. (Clinton promising to reverse Citizens United, Trump promising to reverse Gay Marriage ruling). And what are the impacts if they actually did have the power to reverse these rulings?

[Darkbeshoy](#)

Most of that is bluster in that legally speaking they don't have that kind of power unless they can push through a Constitutional amendment. On the other hand, if they are saying that they will only appoint people to the Court after answer litmus test questions about their willingness to overturn those rulings, then it all depends on whether you agree with their positions. At least it brings the fact that Supreme Court decisions are political even more out into the open. (Although on the other hand, I think that it would do a lot for the political discourse in the country if nominees were made to appear more bi-partisan - so I'm kind of two minds on that issue.)

Congratulations on the publishing of your first book! After reading your introduction, I have a brief feeling for the philosophy expounded.

I would like to ask: if you are a positivist rather than a "natural lawyer", do you still believe that law must be the product of some underlying agreement on the values of the institution? If such agreement is lost, upon what ground does the law ultimately derive it's authority?

Bonus question: what is your opinion on the Black Lives Matter movement as a rejection of the current state of law and/or law enforcement?

[Faie](#)

Thanks!

Laws do not need to be the product of agreement on the values of the institution once the institution is made. Any authority a given law has is legitimated independently anyway since it depends on wider non-institutional factors (or least these may be non-institutional): whether the law is helping people. One does hope that one's legal system has organizing principles with which one agrees and that the laws made within it by its officials are in broad accord with those principles. But once the institutional apparatus is in place, that agreement need not be present for the law to be valid.

I am not as informed as I'd like to be on all of the details of BLM as a movement, but my sense of it is that it is not a rejection of law or law enforcement in general, but rather a criticism of how some elements of it are currently being practiced.

Something I've been toying with: is the JD really necessary? I feel like if we broke the law down into its practice areas (criminal, constitutional, tax, etc.) and issued licenses for each practice area rather than requiring an expensive three-year education, we'd lower the financial barrier to entry and solve some of the "as much justice as you can afford" issues. As someone who couldn't justify the cost of law school but just argued on FIRE's Facebook page until 3 a.m., I have my own biases, so I'd love to hear from someone who might be more objective.

[ASigIAm213](#)

I don't know. It sounds like an intriguing idea. On the other hand, there are frequently inter-relations and complexities within the law that require a broader picture. If one doesn't have knowledge and experience in those other areas, one risks misleading or otherwise under-serving one's client. One of the central claims of critical legal studies, for example, is that when the law runs out for your claim in one area of law, just jump to another area. Think of medicine as well. We do have doctors with some specializations limited to certain areas (teeth, feet). But generally we want doctors who are specialists but have knowledge in the whole body at the same time in case there are inter-related problems that they can at least recognize and send you to another specialist. Legal practice already works like this somewhat.

You have said in your answers that you are a positivist, but you have also said you agree that much of the law has a moral component. You seem to want a sort of hybrid account, but I am hearing more waffling than a consistent account. Do you think that a judge should consider moral issues when making decisions, or do you think the stability that comes from a system of law that is more straightforwardly applied is ideal?

Also, have you read Michelle Alexander's *THE NEW JIM CROW*? Do you think her assessment of the law is accurate? If so, how can this situation be ameliorated?

Thank you for doing this AMA!

[Invius6](#)

There is no waffling or hybrid account in saying that I believe the law to be a tool created by human beings but that it clearly has a strong moral component. We need moral justifications to use it; we hope that it reproduces at least a good part of morality; etc. My theory doesn't directly tell a judge what to do, but I think judges should certainly consider moral issues when making decisions in what we call 'hard cases,' where the law on an issue is vague or conflicted. There is stability notwithstanding the fact that there are gaps and judgment calls to be made all over the place.

I haven't read the book (yet) but do believe that there is a serious problem of over criminalization and over incarceration and that these tools have not been used in racially neutral ways in our country. Solving that is probably above my pay grade but will need to involve a fundamental shift in the way we perceive crime and use it as a tool for social change.

I'm currently an undergrad student at the University of Alabama who's hoping to attend law school after graduation. So firstly: Roll Tide!

What made you decide to pursue this track of study? Is there anything that would make you suggest against it as a career choice for a student such as myself?

[molgars](#)

Well, for a career choice it's very risky as there are not very many jobs. That being said, if you are

interested in philosophy, nothing prevents you studying and even writing some philosophy once you're a lawyer (except whatever time limits you might have from your job and other time commitments).

Do you think that there is an analogy between philosophical thinking and legal reasoning?

[symoizez](#)

I'm of the opinion that there isn't much difference between them, more about the subject matter than anything else. There are some pragmatic differences in argument styles.

Hi Prof Ehrenberg,

I've got a question about the judicial system's role as a mechanism for accountability. In the field I work in (social conventions) there is a debate about the role of accountability for social norms, and for my dissertation I latched onto the legal example to try and show how unsettled standards of accountability are. I wanted to know whether you agree that these standards are somewhat up in the air, whether you think this is something a judicial system should address, and could tell me what mechanisms judicial systems have or might have in order to make sure that sentences match up to a standard of accountability and how to choose the standard in question.

There has recently been a lot of media attention to cases where some individuals who are undoubtedly guilty of some crime manage to use the greater resources available to them to receive what is by most standards very lenient sentencing. Ethan Couch is the best known case, and there are many others. [This one in New Zealand](#) is the clearest I know of, where bored rich teenagers went on a months-long burglary spree just for kicks and ended up with very lenient sentences. What is nice about this example is the judge citing the extraordinary support the criminals received. Let's try and bracket the large difficulties regarding what an appropriate sentence would be in these cases (many of these cases involve young first offenders, popular outcry often demands far higher sentences than is effective or proportionate especially when fanned by the media, etc.), and also bracket the cases where certain classes of convicts receive notably more onerous sentences (often because of a public outcry or vilification of some acts or the class of convict involved), and just concentrate on the fact that often enough sentences for certain classes of convicts can be noticeably more lenient with a resulting outcry about those convicts not being held sufficiently accountable.

Another interesting example, one that isn't perhaps as pernicious as the well-heeled coming off lightly, is how in Australia certain aboriginals who are convicted of certain crimes are given more lenient sentences because of the recognition that their aboriginal communities will exact punishment of their own after the convict served the sentence received in court. This seems to be an acknowledgement that for a certain segment of the population the court isn't the sole venue for accountability and that the legal system should make allowance for popular standards of accountability.

Thanks in advance!

[irontide](#)

There are conflicting pressures here. Recognition of the unfairness of some of these examples can lead to calls for mandatory minimums and a restriction on judicial discretion when it comes to sentencing. But that has its own problems, one of which is that discretion is passed on to prosecutors, who have a different set of incentives and pressures than judges. Another issue to disentangle is whether these really are light sentences (especially for first offenders) in an absolute sense, or if the real problem is the lack of parity in these cases with others in which poorer defendants are convicted as first offenders of similar crimes. Then the problem is not really that these are treated too leniently, but that others are treated too harshly. But that is then a deeper problem of equality and access to

resources. A basic question about what you call accountability is where the decision should be made based upon a background understanding of how situational the answer is. Does it make more sense to say that everyone who commits a given crime described generally by the law is in a morally equivalent position? If not, then it would seem more appropriate to let those closer to each situation decide the punishment - usually the trial judge. If we think that everyone committing a given crime is morally equivalent, then maybe it makes more sense to set mandatory sentences and take it out of the hands of the judges.

How long do you think it will take before Alabama decides to get it's head out of its own butt and legalize medical marijuana?

[BaddestAndvari](#)

Probably longer than most of the rest of the country. But you already knew that.

So much money that could have go into education is going to Football .. what is your personal view on this issue.

WAR EAGLE!

[damn_jexy](#)

I decline to answer on the grounds that my answer might serve to incriminate me.

Is there any evidence real or philosophical that Adversarial Court Systems like Great Britain and the US (prosecutor vs defendant) come to more accurate results than modern Inquisitorial Systems (court investigation) like France?

[meisteronimo](#)

As a philosopher, I'm woefully under-informed about any practical studies to that effect. As I'd like to consider myself someone who comments on law where ever it is to be found, I don't usually get into comparative questions that would pit one system against another like that. But I can say I see philosophical advantages and disadvantages to each way of doing things, so I doubt it's a simple answer.

What is 'Justice'?

[DartHackin](#)

Giving everyone what he or she is due.

Isn't justice subjective? Justice in the eyes of a terrorist is not the same as in the eyes of some lawyer, is it? How did it get objective? Why is the X one the right one?

[IceMobster](#)

The fact that people have different opinions about something doesn't make it subjective. People had different opinions about whether the solar system was geocentric or heliocentric, but that didn't mean it was just a matter of opinion. Now, there are moral theories that say there is no objective fact of the

matter. But they don't hold that position merely because people disagree. Other theories peg justice or morality to reason, so the most rational theory of justice would be the right one.

Can you talk a little bit about how the Article III standing requirement would effectively block any suits to force the Senate to advise and consent (pursuant to Article II, section ii) on Judge Garland's nomination? Specifically I mean that the only person who would have standing to bring such a suit would be Judge Garland himself, who never in a million years would. Then there would be the whole Political Question doctrine to get around.

Cheers.

[long_dickofthelaw](#)

Not really my area of expertise, but it does look like standing would be a hurdle to overcome in such a suit, as would Political Question, and whether advise and consent is one of the functions of the Senate that it could even be sued for failing to perform in the first place (putting aside both standing and political question).

Will you be appearing on any podcasts to talk about this book?

[DarthRainbows](#)

I'm open to suggestions.

If you were POTUS whom would you nominate for the Supreme Court?

[sprag80](#)

Can I nominate myself? I think it's a much better job than POTUS.

I recently represented myself in a family law issue. Im a paralegal per my states Bus and Prof. code so I kinda had an understanding to the process. My ex girlfriend moved out of state without any consent. She was represented by an attorney. I was able to cite cases and prove custodial interference. The judge insulted me and said that I used legal aid and whatnot with her bailiff standing over me in an attempt to intimidate me. I had precedence that was in point but was basically laughed at and watched as they basically took my son away. I was given small bits of custody orders but she never followed orders. She moved back and now shes got ANOTHER boyfriend who she is nesting with telling me i cant see him and demanding supervised visits after i have made many unsupervised visits very recently. What should my new plan of attack (legally) should be?

[PokeEggHatcher](#)

I would think your first step would be to get a lawyer. But this does not constitute legal advice. (Sorry to hear about that terrible situation, though. Custody/family law issues are almost always the most tragic, but also ones where it seems the most difficult to make policy suggestions about how to improve.)

Do think that implementing automatic life sentences for crimes committed with firearms would help decrease the overall problem of gun violence in the US? What about automatic life sentences for rape and pedophilia?

[notreelserious](#)

I generally think that mandatory minimum sentences have done more harm than good in this country and that they aren't a good policy response to problems that we've criminalized. Plus, there are many studies that show people aren't actually being deterred by the higher level of punishment.

Dear Prof. Ehrenberg,

How do you think political authority is justified? That is, what is it that makes governments and their edicts legitimate? Why, for example, can governments regulate what I eat, what I put in my body, with whom I can associate, or even tax me, etc., while other private citizens would be labeled as criminals and extortionists for doing the same thing? What is the best way to justify this moral asymmetry?

Thank you!

P.S., Who are your favorite philosophers?

[LeeHyori](#)

You think it's asymmetrical, but it's not really. Lots of other people have authority over you: parents, bosses in your workplace, leaders of other organizations you might belong to, etc. Now it looks unfair when it comes to the government because they seem to have authority over everything, while these others are limited in their domains, and because we don't have a choice about being under the government's authority, while we do with at least some of these other spheres. But the truth is that just about anyone can get authority over you in the right circumstances. Imagine you're in a room with 99 other people and two doors. There are 100 people outside the room. Now for some emergency reason, everyone inside the room needs to get out and everyone outside needs to get in. If the emergency just started happening, everyone would run to the nearest door and no one would be able to get in or out. But if someone jumps up on a table and points at one door shouting "that door is the exit, the other is the entrance" - the very fact that this person has given a solution to the problem gives her the right to tell everyone what to do. Perhaps political authority is basically the same: It's not always justified, perhaps not even mostly. But when it is justified, it is because it is somehow helping people do what they are supposed to be doing, helping them to do see what's best in a way they couldn't see on their own.

What are some thoughts and theories on the globalisation and decentralisation of legal systems (i.e. EU but also future developments/models/predictions), if there are any, a short summary and if you have any thoughts on the subject is sufficient. Also any good recommendations on reading materials on such thoughts.

[letharin](#)

It's not really my area directly, but I think we have to be mindful in our theories of law not to focus exclusively on the nation-state and to remember that legal systems can be both super- and sub-national. Two good friends that work in this area are [Michael Guidice](#) and [Samantha Besson](#).

Not sure if this entirely on topic, but I'm curious about your time before becoming a professor. Did you spend much time after your JD in practice and if so what did you focus on?

I'm a recent law grad and I'm honestly not sure if practice is the place for me. I enjoyed the academic side of things, and loved working on papers for publication or for professors. But practice so far has not excited me quite the same way. Granted super early in a career, but I'm curious about your transition

from JD to professor.

[ProjectAzar](#)

I pretty much always expected to return to complete my PhD and worked for only two years before doing so. I did enjoy it and had some great experiences but knew that longer term I wanted the academic focus and lifestyle. That said, the right legal job can be very much like an academic job in focus (and even lifestyle, if you're lucky).