



**WELCOME**

Welcome to the 10th edition of Cutting Through. We hope you will enjoy this issue with recommendations on films, documentaries, podcasts, and so much more! In light of World Philosophy Day 2020 this month, see in our cover Raphael's famous The School of Athens!

- Asteropi

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John Oberdiek, 'Philosophical Issues in Tort Law' (2008) 3 (4) Philosophy Compass 734.

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The School of Athens IMG Wikipedia



## PODCASTS

**Supreme Inequality, Brennan Center for Justice**

Adam Cohen, writer of *Supreme Inequality: The Supreme Court's Fifty-Year Battle for a More Unjust America*, discusses the rulings of the Supreme Court of the United States and the conservative reform of the Court by Nixon. Could the Supreme Court be, as Cohen argues, a driver of economic inequality?

Brennan Center Live is a project of the Brennan Center for Justice at NYU School of Law. Find more [here](#).

**The inheritance of Joe, The Economist**

Simon Long examines the economic and market challenges that President-elect Biden will have to face amid an unprecedented financial and global health crisis. Biden promised to 'heal' America. How will the 46th President heal America's economic health? Read more about private markets [here](#).

**Debrief Episode 18, Kings Chambers**

Eliza Sharron and Francesca Gardner discuss with his Honour Judge Butler the recent developments in the field of inherent jurisdiction following the High Court 2019 cases of *Wakefield Metropolitan District Council v DN & Anor*, *Southend-On-Sea Borough Council v Meyers*, and *Redcar & Cleveland Borough Council v PR & Ors*. What is inherent jurisdiction? Find more [here](#).

**The Philosophy Podcasts, Oxford**

Are you intrigued to learn more about philosophy? The Faculty of Philosophy, University of Oxford, has a fantastic selection of philosophy podcasts and lectures. From John Locke to Nietzsche, and from ethics to the philosophy of religion, this is a fascinating field of thinking! Explore the philosophy podcasts [here](#)!

## ARTICLES

**Philosophy in Law? A Legal-Philosophical Inquiry**

Rosenfeld's angle differs from Dworkin's approach (law derives from philosophy) and from an Aristotelian view of philosophy. Rosenfeld asks the question: 'does or can philosophy *inhere* in law?' Could philosophy be part of the mechanism of law? Rosenfeld engages a functional approach with his analysis structured in two parts, offering insights on familiar debates in legal philosophy and the well-disputed question of what is the link between philosophy and law. Could there be a spectrum where philosophical matters overlap with the practical application of the law? Rosenfeld argues that 'law as a normative system must remain normatively open' and concludes that in the context of complex legal systems, philosophy in law is inevitable.

Find more about Ronald Dworkin (1931-2013), his contribution to philosophy, and a list of his works [here](#). Find more about Aristotle and the issues explored in his works, including *Nicomachean Ethics* (350 BCE), [here](#) and [here](#).

**Philosophical Issues in Tort Law**

Oberdiek examines the tort of negligence through a philosophical lens, noting that the relationship between philosophy and tort is known at least since Hart and Honoré's *Causation in the Law* (1959). Oberdiek explores all elements of proving negligence, a duty of care, breach of duty, causation, and remoteness, unveiling a fascinating philosophical study of the law of torts. Of particular interest is his analysis of the nature of duty and the philosophical debate about wrongdoing:

A significant reason for thinking that something is wrong because it *wrongs* - the idea that animates the relational conception of duty - is that it captures why people care about moral carelessness more than they care about, say, carelessness in theoretical reasoning.

# FILMS

DuPont's use of PFOA, also known as C-8, in its plant in Parkersburg, West Virginia, caused one of the gravest environmental pollutions with the poisoning of water of the Ohio River, with life-threatening consequences for the people of Parkersburg. **Dark Waters** (2019) follows the C-8 lawsuits and the efforts of Robert Bilott (Mark Ruffalo) against the titan company for causing a number of severe medical conditions, including kidney and testicular cancer, ulcerative colitis, and pregnancy-induced hypertension. Just three years ago, DuPont reached a global settlement of \$670 million for dumping almost 2.5 million pounds of C-8 into the Ohio River Valley area. The film adequately shows the scale of the case, telling a story of human greed and negligence.

Find more about the case [here](#). You can also find out more by reading Nathaniel Rich's 'The Lawyer Who Became DuPont's Worst Nightmare' (NY Times Magazine, 2016), Callie Lyons' *Stain-Resistant, Nonstick, Waterproof and Lethal: The Hidden Dangers of C8* (2007), and Billot's memoir *Exposure* on his 20-year long legal battle against DuPont.

Hitchcock's **The 39 Steps** (1935) is a classic black and white mystery film perfect for a cozy Sunday afternoon that has nothing the expected about it. An everyday man in London (Robert Donat) finds himself in an espionage game and is accused of murder. Hitchcock's masterful craft and subtlety reach their peak in this film, filling the plot with sophisticated comic elements and twists.

More mystery and espionage in a cold-war setting in Spielberg's the **Bridge of Spies** (2015) on a Chapman and Coen script. At the heart of negotiations for the exchange of Gary Powers (Austin Stowell), held by the Soviets, and Rudolf Abel (Mark Rylance) arrested by the US, James Donovan (Tom Hanks), an American defence lawyer, shows impulsiveness and admirable determination. The films feel like it finishes in a minute. Who was [Rudolf Abel](#)?

## DOCUMENTARIES

### **The Trials of Gabriel Fernández, Netflix**

The case of horrendous child abuse of the 8-year old Gabriel who died in the hands of his family after what one could describe as continuous torture. A case rooted in systemic neglect and failure of the system that ought to protect Gabriel. Brian Knappenberger makes a nail-biting six-part documentary, allowing us to be the insiders in a trial that shocked the United States and the world in 2013. Are the existing frameworks and laws sufficient to protect children?

### **The Shipman Files:**

#### **A Very British Crime Story, BBC iPlayer**

Chris Wilson revisits the case of GP Harold Shipman. Shipman was a well-respected doctor in the small market town of Hyde in Manchester, charged with the murder of 15 of his patients in the late '90s. Doubts on the validity of Kathleen Grundy's will turned into a multiple murder investigation with gruesome details. Shipman's case is the biggest murder trial in British history, raising questions about the profiles of his victims. Three riveting episodes, narrating a story of abuse of power, trust, and the law.

#### **Is This Sexual Harassment?, BBC iPlayer**

After the emergence of the #metoo movement, more and more men in powerful positions across sectors started facing allegations of sexual harassment. But what are the boundaries of sexual harassment? BBC Three embarked on a social experiment of 20 people between 18-30 years old to find out what is sexual harassment in the workplace. That is an interesting take on how to understand and educate about sexual harassment, and there is only one month left to watch!

# HELLO FRESHERS

SIX SIMPLE STEPS FOR YOUR FIRST SUMMATIVE ESSAY

## RESEARCH

You could spend a few days researching journals, books, and other secondary sources and make a map of articles/chapters you could read.

## READ

Start reading the sources you have chosen and discard any irrelevant information. Keep brief notes as you're reading to facilitate your writing later!

## STRUCTURE

Make a skeleton of your essay, following your notes during lectures and tutorials. Make sure you answer the question!

## WRITE

The earlier you start writing, the better! You can have time to reflect on your arguments, restructure your essay, and revise any points needed.

## REFERENCE

Make sure you reference your work with secondary and primary sources. You can find the Oscola referencing guide [here](#).

## SLEEP ON IT

Put your essay aside for a couple of days and reread it with fresh eyes. Check the assessment criteria in the student handbook on QM+ and, good luck!

## #judgment

### Ecila Henderson v Dorset Healthcare University NHS Foundation Trust

- The Supreme Court unanimously dismissed the appeal.
- The claim was barred by the illegality defence.
- Read the full judgment [here](#) and the press summary [here](#).
- Read our interview with Nicholas Bowen QC in Vol.6 [here](#).

## New Writers

Cutting Through celebrates 2020 with a fantastic December issue! Do not miss your chance to write and publish your piece. Share your idea now!

- Email us at [info@queenmarybar.society.org](mailto:info@queenmarybar.society.org) with the subject line: Cutting Through December.
- Or you could message us on LinkedIn [here](#)!

# CALENDAR

## DEADLINES

Mini-pupillage

One Essex Court  
30 November

Landmark Chambers  
30 November

Keating Chambers  
1 December

7 King's Bench Walk  
1 December

Monckton Chambers  
18 December

1 Hare Court  
31 January

## EVENTS

Life Within the Criminal Justice System  
1 December

What Law Schools Do Not Teach You A Judge's Perspective  
10 December

Land Law Panel  
14 December

## COMPETITIONS

Land Law Advocacy Competition

This is an absolutely fantastic written Advocacy Competition designed to test your written persuasive skills and draft documents! See more details [here](#).