

Lingnan University
Department of Philosophy

Course Title	: Philosophy of Law
Course Code	: PHI4367
Recommended Study Year	: 3 rd Year
No. of Credits/Term	: 3
Mode of Tuition	: Sectional Approach
Class Contact Hours	: 3 hours Lecture per week
Category in Major Programme	: Programme Elective - Ethics and Practical Philosophy Profile
Recommendation(s)	: CCC8003 Understanding Morality
Co-requisite(s)	: N/A
Exclusion(s)	: N/A
Exemption Requirement(s)	: N/A

Brief Course Description

An examination of basic ideas that underlie the idea of law, including the classical Western notions of natural law and contractualism, as well as the inherent difficulties with these views. The course further explores other ideas of law, including the project of legal positivism. Following this grounding in the basic ideas of law, the course aims to present some recent developments in legal theory including those surrounding the problems raised by critical legal theory and Dworkin's contribution to law's interpretation.

Aims

This course seeks to provide students with an introduction to the main ideas that make up the body of legal philosophy.

Learning Outcomes

The course is designed to equip students be able to:

1. Demonstrate a familiarity with the literature and controversies surrounding the concept of law.
2. Be able to outline the traditional positions on legal theory including natural law, legal positivism and the Dworkinian response.
3. Demonstrate an understanding of some of the key social and political aspects of the law.

Indicative Content

Introductory issues in the philosophy of law; law as it is and as it ought to be

The classical Greek tradition through Christian naturalism

Machiavelli, Hobbes and the emergence of contractualism;

A doctrine of secular authority

Finding the law in legal positivism:

Jeremy Bentham, John Austin and Herbert Hart

Problems inherent to contemporary global conflict:

The Rule of Law and the possible responses to terror

Ronald Dworkin and the future of legal theory

Teaching Method

The course employs a seminar approach, including lectures as well as group discussion. Lectures are designed to introduce students to the techniques of argument analysis and assessment. Discussions are meant to allow students to reinforce general concepts within the context of both group discussion and practice.

Measurement of Learning Outcomes

Students' progress toward the intended learning outcomes will be assessed as follows:

1. Given that this is an elective course offered within the Department, it is to be taught in a seminar format. Therefore, class participation is regarded as being particularly important. Students are expected to actively participate in class discussion, in terms of bringing their own questions to the table and making their own arguments about the course material under discussion. Refers to Learning Outcomes 1-3.
2. Students will also be required to take a final examination where they should demonstrate an ability to identify specific theoretical issues and then apply these to specific issues in aid of their answers. Refers to Learning Outcomes 1-3
3. Students will write a research paper which will be on a selected topic within the discipline of legal philosophy to be approved by the instructor. Refers to Learning Outcomes 1 and 3.
4. In both class participation and in the written component, students will also demonstrate an ability to argue a position on a selected question topic and then move from their premises to a well-reasoned conclusion. Refers to Learning Outcomes 1-3.

Assessment

Research Paper: 30%

Class Participation: 25%

Final Examination: 45%

Required Readings

Morrison, Wayne, *Jurisprudence: From the Greeks to post-modernism*, London: Cavendish, 1997.

Supplementary Readings

Coleman, Jules & Shapiro, Scott, (eds.), *The Oxford Handbook of Jurisprudence & Philosophy of Law*, Oxford: Oxford University Press, 2002.

Dworkin, Ronald, *Law's Empire*, MA: Harvard University Press, 1986.

Dworkin, Ronald, (ed.), *The Philosophy of Law* Oxford: Oxford University Press, 1977.

Hart, H.L.A., *The Concept of Law*, Oxford: Oxford University Press, 1997.

Marmor, Andre, *Interpretation and Legal Theory*, Oxford: Clarendon Press, 1992.

Important Notes

- (1) Students are expected to spend a total of 9 hours (i.e. 3 hours of class contact and 6 hours of personal study) per week to achieve the course learning outcomes.
- (2) Students shall be aware of the University regulations about dishonest practice in course work, tests and examinations, and the possible consequences as stipulated in the Regulations Governing University Examinations. In particular, plagiarism, being a kind of dishonest practice, is "the presentation of another person's work without proper acknowledgement of the source, including exact phrases, or summarised ideas, or even footnotes/citations, whether protected by copyright or not, as the student's own work". Students are required to strictly follow university regulations governing academic integrity and honesty.
- (3) Students are required to submit writing assignment(s) using Turnitin.
- (4) To enhance students' understanding of plagiarism, a mini-course "Online Tutorial on Plagiarism Awareness" is available on <https://pla.ln.edu.hk/>