

December 17, 2016
Revised version

Philosophy 338A 001
PHILOSOPHY OF LAW
January-April 2017

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This is a course in the epistemology of law. Law and philosophy share a number of fundamental ideas, whose similarities and differences will occupy our attention here. Overlapping with moral and political philosophy are notions of rights, freedoms and duties. Others, such as proof, evidence, truth, implication, inference, argument, testimony, certainty, probability, presumption and relevance, are also central to epistemology and logic. To help lend the course some focus, we will concentrate on how these latter ideas operate in criminal and constitutional practice, and will read some key decisions that have risen in those settings. For example, when an accused person is sentenced to a long stretch in prison upon conviction for murder in the first degree, he has been *proved* guilty of the crime *beyond a reasonable doubt* upon *evidence sworn* by witnesses under oath. These and other such concepts will claim our special attention. An underlying question will be what, if anything, is to be learned by philosophers from how these epistemological concepts operate in law, and how might the law benefit from instruction about how these same notions play out in philosophy?

Please note that the course website is the instructor's website: www.johnwoods.ca

Required Readings

- John Woods, *Is Legal Reasoning Irrational? An Introduction to the Epistemology of Law*, London: College Publications, ISBN 978-1-84890-162-9, 2015.
- The Canadian Charter of Rights and Freedoms, on the course page. Link to the *Constitution Act*, 1982.
- Various cases, also to be posted online as needed.

- Occasional supplementary notes posted online as needed.

Optional Readings

- Jerome Bickenbach, editor, *Canadian Cases in the Philosophy of Law*, 4th edition, Broadview Press, ISBN 9781551117751, paper. Contains the Charter of Rights and Freedoms and most of the cases we’ll be discussing in class. Recommended.
- Brian H. Cox, *A Dictionary of Legal Theory*, New York: Oxford University Press, 2004, ISBN 0-19-924462-6, hard cover. Useful to have if you can afford it.
- Steven H. Gifis, *Dictionary of Legal Terms* 4th edition, Hauppauge, NY: Barron’s, ISBN 978-0-7641-391-5, paper. Recommended.
- Kent Roach, *Criminal Law*, 2nd edition, Essentials of Canadian Law, Irwin Law, 2000, ISBN 1-55221-041-3, paper. A widely used textbook in Canadian Law Schools. Everything we’ll be saying about criminal law is well-covered here. Useful as a back-up for students who wish to enlarge their knowledge of this area of law.

Assignments

- A 70 minute in-class test calling for short essay-style answers to a selection of questions Thursday February 16, 2017. Worth 30% of the course grade.
- A 70-minute in-class test, calling for longer essay-style answers to two questions chosen from four or five. Thursday March 16, 2017. Worth 30% of the course grade.
- Final examination TBA. Worth 40% of the course grade.
- *UBC Policy on Academic Honesty*
The University requires all students to familiarize themselves with its policy on cheating, plagiarism and other forms of academic dishonesty. Please check the UBC website or consult with the Student Advising office of your particular Faculty.

UBC Grading Chart

Marking key

A+ 90-100	A 85-89	A- 80-84
B+ 76-79	B 72-75	B- 68-71
C+ 64-67	C 60-63	C- 55-59
	F 0-49 (fail)	

Philosophy and law are alike, not only in their respective subject matters, but also in ways that are methodologically important. Each is an essentially argumentative, case-making enterprise, each placing a high premium on reasoning that is both sound and persuasive. In the common law, case-making is by design a contest about some disputed matter, with each party seeking to prevail against the other. The contest is won or lost depending in part on whether the one party defeats the arguments of the other. Philosophy is also a highly adversarial form of argument, in which one side of a disputed issue squares off against another. But there is a critical difference. Legal disputes are refereed and settled by a third party. Philosophical disputation is settled by the contestants, or not at all. Students should try to keep these points in mind when organizing their own thoughts about the topics covered here, every one of which is the subject of disagreement, or at least puzzlement, by philosophers and lawyers alike.