

Program Philosophy of Law

Associate Professor: Andrew Haas.

Pre-requisites: none (but a good knowledge of the history of philosophy is helpful).

Course Type: elective.

Abstract: This course examines the history of the philosophy of law/right through a close reading of Hegel's *Philosophy of Right*. We seek to connect questions of individual freedom and equality to the family, civil society, the state, and fundamentally, the world. Thus, we attempt to place Hegel in context by referring back to the Greeks and Kant, and forward to contemporary debates (with regard to thinkers such as Habermas, Derrida, Agamben).

Course Plan:

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| Week 1 | <u>Introduction</u>
History of the Philosophy of Law and Right (from the Greeks to Us)
Plato, <i>Republic</i> , <i>Laws</i> , <i>Timeaus</i> , selections. |
| Week 2 | <u>Reason Before History</u>
Kant, "Idea for a Universal History from a Cosmopolitan Perspective." |
| Week 3 | <u>What is Right? (On the Ground of Law)</u>
Hegel, <i>Philosophy of Right</i> (Introduction) |
| Week 4 | <u>Abstract Right: Property, Contract, Wrong (On Having and Being)</u>
Hegel, <i>Philosophy of Right</i> (First Part) |
| Week 5 | <u>Concrete Right: Good and Responsibility (On Being Implicated)</u>
Hegel, <i>Philosophy of Right</i> (Second Part) |
| Week 6 | <u>Conceptual Right: Family and Friends (On Trust)</u>
Hegel, <i>Philosophy of Right</i> (Third Part) |
| Week 7 | <u>Conceptual Right: Barbarism and Civilization (On Force and Violence)</u>
Hegel, <i>Philosophy of Right</i> (Third Part) |
| Week 8 | <u>Conceptual Right: State and World (On Survival)</u>
Hegel, <i>Philosophy of Right</i> (Third Part) |
| Week 9 | <u>A New International?</u>
Derrida, <i>Specters of Marx</i> , selections. |
| Week 10 | <u>Concluding Discussion</u> |

Grading System:

50% class participation and/or presentation.

50% written paper.

Reading List

Required:

Open access: <http://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf>

Open access: <http://www.perseus.tufts.edu/hopper/text?doc=Perseus:text:1999.01.0166>

Open access: <https://www.marxists.org/reference/archive/hegel/prindex.htm>

Open access: <https://www.marxists.org/reference/subject/ethics/kant/universal-history.htm>

Open access: <https://www.marxists.org/reference/subject/philosophy/works/fr/derrida2.htm>

Guidelines for Knowledge Assessment:

Students will be assessed on the basis of (1) argument based on (2) textual evidence.

Students will learn how to construct a presentation and/or paper. Although there are many methods, one is “the movement from thesis to analysis to synthesis” in order to:

- a. Introduce the work in a way that catches the reader’s attention. A startling claim or a question that ends in a (hypo)thesis. (1/10 of the text.)
- b. Gather and analyze the textual evidence: “See the trees for the forest.” Apply the criteria of “accuracy and completeness.” Analyze texts and logical reasoning; find ambiguities, questions, problems. Examine secondary sources. Consider translations. (4/5 of the text.)
- c. Evaluate the evidence: immanent critique means “giving them enough rope to hang themselves.” Synthesize our arguments into a whole: “See the forest for the trees.” Use logical reasoning to make it convincing. Draw out and clarify the implications. Conclude that the hypothesis has been proven, but that questions remain. (1/10 of the text.)

Learning Objectives:

Students will learn how to avoid the following errors:

- a. Confusing argument with *debate*, taking a strong, oppositional position on a topic and then trying to win points.
- b. Mistaking *assertion* for argument—for even the most powerful rhetoric remains unconvincing, if not supported by clear evidence and logical reasoning.
- c. Assuming that merely *describing* an issue or question is as good as arguing for a position.
- d. Thinking in *simple* black-and-white terms, neglecting the nuances of argument.
- e. Citing an *authority* with almost blind reverence, and *ignoring* other points of view.
- f. Taking *opinion* for argument, writing papers that are *subjective*.
- g. Constructing a *weakly-supported* or *poorly-reasoned* argument because it is, after all, their opinion, and they have a right to it.
- h. Believing mere *comparing-and-contrasting* is an argument.
- i. Relying on *structures* learned in school or university, which may not suit arguments or academic requirements in philosophy.
- j. Not going from *facts* to an argument for the interpretation of the facts.

Thus, we will learn how to prepare a philosophy presentation and/or paper with an original thesis, and a strongly-supported and well-reasoned argument based on textual evidence—*not* observation, data, information, opinion, examples, belief, experience or feeling. Students will learn how to be as accurate and as complete as possible (two major criteria).

Learning Outcomes:

- a. Do philosophical research.
- b. From this research (reading, thinking), come to establish evidence.
- c. From evidence, or its absence, make inferences.
- d. Testing the validity of inferences, come to philosophical intuitions.
- e. Taking those intuitions and develop a thesis.
- f. Consider the thesis’ validity, and use evidence and reason to construct arguments.
- g. Test the arguments to determine how convincing they are, and challenge the arguments of others by employing critical analysis.

The process is not linear; rather, as students learn to craft arguments, they will be encouraged to return to the evidence, draw new inferences and form new insights that, in turn, affect the arguments that we are making. If the goal of philosophical argument is knowledge, we need to begin with the assumption—like Socrates—that we do not know. We need to understand that our own premises and biases are not fact, that what we learned at school or university, from this expert or that authority, is not necessarily correct. We thus challenge our premises and biases. In this way, we can hope to discover and to challenge the premises and biases of others. In short,

students will learn to be open to experiencing some shift in understanding, to being convinced by others, and so to arguing in such a way that others experience it and are convinced as well. One way to facilitate this shift is to think in a way that moves back-and-forth between evidence and argument—while maintaining a clear and logical progression. Thus, students will learn to:

- a. Know the difference between reliable and unreliable interpretations;
- b. Be persistent to observe objectively and thoroughly, and to collect textual evidence;
- c. See patterns or relationships in what we have observed or discovered in our reading;
- d. Infer and assume carefully;
- e. Form conclusions (and provisional conclusions) while keeping an open mind;
- f. Create original and convincing arguments, understanding that these arguments are not the last word, but part of an ongoing debate in a scholarly process.

Methods of Instruction:

Seminars, discussions, questions, presentations.

Special Equipment and Software Support: none.