

## 730-438 Philosophical Approaches to Equity

<b>Credit Points:</b>	12.50
<b>Level:</b>	4 (Undergraduate)
<b>Dates &amp; Locations:</b>	This subject is not offered in 2009.
<b>Time Commitment:</b>	Contact Hours: Three hours of seminars per week Total Time Commitment: 144 hours.
<b>Prerequisites:</b>	Equity and Trusts or equivalent.
<b>Corequisites:</b>	None
<b>Recommended Background Knowledge:</b>	None
<b>Non Allowed Subjects:</b>	None
<b>Core Participation Requirements:</b>	<p>&lt;p&gt;For the purposes of considering request for Reasonable Adjustments under the Disability Standards for Education (Cwth 2005), and Student Support and Engagement Policy, academic requirements for this subject are articulated in the Subject Overview, Learning Outcomes, Assessment and Generic Skills sections of this entry.&lt;/p&gt; &lt;p&gt;It is University policy to take all reasonable steps to minimise the impact of disability upon academic study, and reasonable adjustments will be made to enhance a student's participation in the University's programs. Students who feel their disability may impact on meeting the requirements of this subject are encouraged to discuss this matter with a Faculty Student Adviser and Student Equity and Disability Support: &lt;a href="http://services.unimelb.edu.au/disability"&gt;http://services.unimelb.edu.au/disability&lt;/a&gt;&lt;/p&gt;</p>
<b>Subject Overview:</b>	<p>The traditional approach to equity concentrated on the historical development of doctrines and remedies in the English Court of Chancery. This subject takes a different approach to equity. It aims to reveal the philosophical foundations of equitable doctrines and remedies. What goals and purposes do they serve? Are they justified morally and, if so, how? In seeking answers to such questions, the subject also aims to supply a theoretical framework within which equitable doctrines and remedies may be evaluated and arguments for reform assessed.</p> <p>Topics to be covered include:</p> <ul style="list-style-type: none"> <li># the nature of equity I: whether the judge exercising equitable jurisdiction plays a role different from that of the judge exercising common law Å jurisdiction;</li> <li># the nature of equity II: whether there is anything philosophically distinct about equity: what, if anything, sets equity apart from contract, tort and unjust enrichment?;</li> <li># the nature of the trust and the application of philosophical principles, such as autonomy, charity and distributive justice, to the trust;</li> <li># the philosophical foundations of fiduciary relationships and obligations and other equitable doctrines, such as equitable estoppel and the doctrines of undue influence and unconscionable dealing;</li> <li># the nature and purposes of equitable remedies; and</li> <li># the nature and purposes of equitable defences such as delay and good faith purchase for value without notice.</li> </ul>
<b>Objectives:</b>	<p>On completion of this subject, students should:</p> <ul style="list-style-type: none"> <li>• have an understanding and knowledge of some of the important philosophical questions and themes underlying and surrounding equitable doctrines and remedies;</li> <li>• be able to analyse, and evaluate, equitable doctrines and remedies from a philosophical perspective;</li> <li>• have developed an appreciation of the importance of theoretical analysis for any comprehensive understanding of legal rules and principles; and</li> <li>• developed further their intellectual curiosity and creativity about the law.</li> </ul>
<b>Assessment:</b>	Research essay of 5000 words (due week 12), 100%.

<b>Prescribed Texts:</b>	Printed Materials will be issued by Melbourne Law School
<b>Recommended Texts:</b>	
<b>Breadth Options:</b>	This subject is not available as a breadth subject.
<b>Fees Information:</b>	Subject EFTSL, Level, Discipline & Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a>
<b>Generic Skills:</b>	<p>On completion of this subject, students should have developed the following generic skills:</p> <ul style="list-style-type: none"> <li># attitudes towards knowledge that include valuing truth and openness to new ideas;</li> <li># the capacity for close reading and analysis of a range of sources, including primary and secondary legal sources and philosophical literature;</li> <li># the capacity for independent thought and reflection;</li> <li># the capacity to formulate and present philosophical arguments, and to think conceptually and critically;</li> <li># the capacity to articulate knowledge and understanding of complex and theoretical ideas in written and oral form;</li> <li># the further enhancement of legal research techniques; and</li> <li># the ability to engage in interdisciplinary work.</li> </ul>