

# LAWS50127 Philosophical Foundations of Law

| <b>Credit Points:</b>                    | 12.50                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
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| <b>Level:</b>                            | 5 (Graduate/Postgraduate)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Dates &amp; Locations:</b>            | 2014, Parkville<br>This subject commences in the following study period/s:<br>Semester 1, Parkville - Taught on campus.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Time Commitment:</b>                  | Contact Hours: 36 hours. Total Time Commitment: 144 hours.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Prerequisites:</b>                    | <table border="1"> <thead> <tr> <th>Subject</th> <th>Study Period Commencement:</th> <th>Credit Points:</th> </tr> </thead> <tbody> <tr> <td>LAWS50023 Legal Method and Reasoning</td> <td>February</td> <td>12.50</td> </tr> <tr> <td>LAWS50024 Principles of Public Law</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50025 Torts</td> <td>November, Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50026 Obligations</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50027 Dispute Resolution</td> <td>Semester 1</td> <td>12.50</td> </tr> <tr> <td>LAWS50028 Constitutional Law</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50029 Contracts</td> <td>Semester 2</td> <td>12.50</td> </tr> <tr> <td>LAWS50031 Legal Theory</td> <td>Semester 2</td> <td>12.50</td> </tr> </tbody> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                |  | Subject | Study Period Commencement: | Credit Points: | LAWS50023 Legal Method and Reasoning | February | 12.50 | LAWS50024 Principles of Public Law | Semester 1 | 12.50 | LAWS50025 Torts | November, Semester 2 | 12.50 | LAWS50026 Obligations | Semester 1 | 12.50 | LAWS50027 Dispute Resolution | Semester 1 | 12.50 | LAWS50028 Constitutional Law | Semester 2 | 12.50 | LAWS50029 Contracts | Semester 2 | 12.50 | LAWS50031 Legal Theory | Semester 2 | 12.50 |
| Subject                                  | Study Period Commencement:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Credit Points: |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50023 Legal Method and Reasoning     | February                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50024 Principles of Public Law       | Semester 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50025 Torts                          | November, Semester 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50026 Obligations                    | Semester 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50027 Dispute Resolution             | Semester 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50028 Constitutional Law             | Semester 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50029 Contracts                      | Semester 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| LAWS50031 Legal Theory                   | Semester 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 12.50          |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Corequisites:</b>                     | None.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Recommended Background Knowledge:</b> | None.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Non Allowed Subjects:</b>             | None.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Core Participation Requirements:</b>  | <p>The Melbourne Law School welcomes applications from students with disabilities. It is University and Law School policy to take all reasonable steps to enable the participation of students with disabilities, and reasonable adjustments will be made to enhance a student's participation in the School's programs. The inherent academic requirements for the study in the Melbourne Law School are: The ability to attend classes and actively engage in the analysis of complex materials and debate; The ability to read, analyse and comprehend complex written legal materials and complex interdisciplinary materials; The ability to clearly and independently communicate in writing a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to clearly and independently communicate orally a knowledge and application of legal principles and interdisciplinary materials and critically evaluate these; The ability to work independently and as a part of a group; The ability to present orally and in writing legal analysis to a professional standard. Students must possess behavioural and social attributes that enable them to participate in a complex learning environment. Students are required to take responsibility for their own participation and learning. They also contribute to the learning of other students in collaborative learning environments, demonstrating interpersonal skills and an understanding of the needs of other students. Assessment may include the outcomes of tasks completed in collaboration with other students. Students who feel their disability will prevent them from participating in tasks involving these inherent academic requirements are encouraged to contact the Disability Liaison Unit: <a href="http://www.services.unimelb.edu.au/disability/">http://www.services.unimelb.edu.au/disability/</a>.</p> |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |
| <b>Contact:</b>                          | Melbourne Law School Student Centre<br>Email: <a href="mailto:law-studentcentre@unimelb.edu.au">law-studentcentre@unimelb.edu.au</a> ( <a href="mailto:law-studentcentre@unimelb.edu.au">mailto:law-studentcentre@unimelb.edu.au</a> )<br>Tel: +61 3 8344 4475                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                |  |         |                            |                |                                      |          |       |                                    |            |       |                 |                      |       |                       |            |       |                              |            |       |                              |            |       |                     |            |       |                        |            |       |

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| <b>Subject Overview:</b>  | <p>Philosophical Foundations of Law is an interdisciplinary subject, to be run by Law School faculty members, faculty members from the School of History and Philosophical Studies, and prominent members of the judiciary. The aim of this subject is twofold – first, to develop in students a high-level understanding of how legal rules embody, and reflect, important philosophical and moral notions which are themselves examinable; and, second, to develop in students a sophisticated approach to thinking about legal questions which employs philosophical rigour.</p> <p>The subject will be structured around a series of seminars run by guests who are experts in the area on which they are speaking. Guests will include academics, legal practitioners, and members of the judiciary. Some seminars will involve two presenters, one an academic and the other a judge/practitioner. These combinations are designed to demonstrate the close relationship, and conceptual overlap, between the disciplines of law and philosophy. Subject coordinators will ensure thematic continuity throughout the subject by drawing out common threads which emerge from individual presentations and class discussions.</p> <p>Particular topics to be covered will vary from year to year, but may include the following:</p> <ul style="list-style-type: none"> <li># The ethics of humanitarian action: the laws of war and aid;</li> <li># The role of moral concepts in the regulation of commercial activity;</li> <li># The attribution of criminal responsibility, and the relevance of intention, motive, voluntariness and consequences;</li> <li># The purpose and justification of criminal punishment, and the meaning and relevance of remorse;</li> <li># Law and political philosophy - <i>Mabo</i> as a case study;</li> <li># Individual autonomy and the duty of others to take reasonable care; and</li> <li># How far do human rights notions account for our conception of justice?</li> </ul> <p>Throughout the course of the subject, students will be encouraged to:</p> <ul style="list-style-type: none"> <li># Identify, and engage with, philosophical concepts (such as autonomy, causation and good conscience) which underpin areas of substantive law;</li> <li># Identify, and engage with, the frameworks of ethical and political theory within which substantive law has developed;</li> <li># Identify, and engage with, the ethical and political choices which inform the development and application of substantive law; and</li> <li># Develop habits of analytical rigour, logical analysis and linguistic precision, in both exposition and argument.</li> </ul> |
| <b>Learning Outcomes:</b> | <p>Students who successfully complete this subject will have developed and demonstrated:</p> <ul style="list-style-type: none"> <li># A sophisticated appreciation of the close relationship, and conceptual overlap, between the disciplines of law and philosophy;</li> <li># A deep understanding of the law and theory relevant to each of the principal topics examined;</li> <li># The ability to express complex ideas and expound reasoned arguments; and</li> <li># Specialised skills in self-directed legal research and the capacity to develop, sustain and reference argument in a thorough and persuasive way.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Assessment:</b>        | <p>Written reflection on initial seminars (1,000 words) (20%); Research essay of 6,000 words (80%).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Prescribed Texts:</b>  | <p>A booklet of readings will be made available before the subject begins.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Breadth Options:</b>   | <p>This subject is not available as a breadth subject.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Fees Information:</b>  | <p>Subject EFTSL, Level, Discipline &amp; Census Date, <a href="http://enrolment.unimelb.edu.au/fees">http://enrolment.unimelb.edu.au/fees</a></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Generic Skills:</b>    | <p>Students who successfully complete this subject will have developed and demonstrated the following skills:</p> <ul style="list-style-type: none"> <li># The ability to read and analyse a range of sources, including texts on ethical theory and political philosophy, related legal sources and interdisciplinary materials;</li> <li># The capacity to engage in critical thinking, independent thought and reflection at an abstract level;</li> <li># The capacity to communicate knowledge and understanding of complex ideas in oral and written forms;</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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|               | <ul style="list-style-type: none"><li># The ability to write effectively in descriptive, analytical, critical and reflective modes;</li><li># The ability to undertake research involving diverse sources and prepare a piece of academic writing displaying sophisticated analysis, synthesis and theoretical understanding; and</li><li># The ability to apply philosophical method to legal analysis, to reason logically and to use language with precision.</li></ul> |
| <b>Notes:</b> | This subject has a quota of 60 students.                                                                                                                                                                                                                                                                                                                                                                                                                                   |