PHIL 347

Course description
In this course, we will examine a basic philosophical question: What is law? Lawyers try to determine what established law says about a particular case, but philosophers evaluate different theories of how law is justified, or what gives a law its normative force to constrain our actions and serve as a reason for acting. We will begin by surveying the four most important theories regarding the origin and justification of law: Natural Law Theory, Legal Positivism, Constructivism, and Legal Realism. We will also talk about how law functions under a constitutional system, different approaches to interpreting established law, and the relation between law and morality. Finally, we will talk about moral responsibility and how it compares to criminal liability, how breakthroughs in neuroscience should or should not affect our conception of criminal liability, and the role of punishment in a legal system. At several points in the class, we will also apply our theoretical research to topical issues in “moot courts,” in which students take sides and argue for positions by drawing on our readings.

Learner outcomes
At the end of this course, students will be able to:

• Demonstrate an understanding of the major theories regarding the philosophical basis of law, including Natural Law Theory, Legal Positivism, Constructivism, and Legal Realism.
• Incorporate their study of legal theory into debates regarding the status of international courts, civil disobedience, freedom of speech, and the execution of juveniles.
• Demonstrate an understanding of how law and morality are related.
• Identify and evaluate the ways that a government justifies its commitment to rights.
• Identify and evaluate the ways that a government justifies the use of punishment.