**Course Title**:
Philosophy of Law

**Lecturer**:
Masami SUMIYOSHI

**Semester**:
Full year

**Course Level**:
3 - 4

**Credits**:
4

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**Course Objective/Theme:**
In this course, we will reconsider and criticize various law principles that are common sense to law scholars, using the thought style called “philosophy” as a major weapon. By doing this, we can learn the limitations of judicial functions in human society, and acquire the discipline to think what should be done to head toward a more adequate <justice> that is beyond law.

**Course Outline:**
Philosophy of law is one of the subjects in the area of basic law. Basic law is a field of academic study that examines and considers current positive law and supporting principles and theories from various perspectives and relativizes such. Philosophy of law, which is among that, approaches law principles that have been considered common sense for law scholars by using the thought style called “philosophy” as a major weapon. There are two approaches. One is to suspect basic principles of current legal structure and the society’s “folkways” that support such, and criticize them relentlessly. Another approach is to seek for the “justice” that law should aim for, based on the limitations of judicial functions, and try to discern guidelines for law interpretation and law and system reforms. This course will develop these themes in the “Makunouchi Bento” style method. In other words, we will cover the main course (to grasp the various traditional points of controversy in legal philosophy), side dish that includes fish, meat and vegetables (to see an overall and balanced picture of various points of controversy that are actively discussed in modern legal philosophy) and seasonal fruits (consider current events from the perspective of legal philosophy). My hope is that by taking this course, students will get a taste of various angles in the study of philosophy of law, which constantly questions legal common sense, as well as acquire clues for cultivating critical thinking.

**Course Schedule:**
First Semester
1. Introduction (Explanation of course overview and plan, etc.)
2. Study of law and philosophy of law
3. Judicial function and problematic points, limitations of law
4. Anarchism – we are better off without law
5. Imagination of order in anarchy, Anarcho-Capitalism
6. Reconsider law through anarchism – what is minimum law?
7. Natural Law – Does a truly correct <law> exist?
8. Modern age and natural law – controversy involving sins against humanity, organ transplant
9. Issues in contemporary discourse on justice – beyond Natural Law Theory and Utilitarianism
10. “Justice” does not mean “Good”  
11. J. Rawls – pioneer in modern theory of justice/Philosophy of welfare state  
12. R. Dworkin – justification of reverse discrimination  
13. R. Nozick – standard bearer of libertarianism, which resonates with even B. Pitt  
14. Rawls vs. Nozick  
15. First semester exam  

Second Semester  
1. From philosophical “justice” to political “justice” – Rawls in his final years  
2. People cannot live in isolation – Communitarianism thinking  
3. From Communitarianism to public philosophy  
4. Liberalism in contemporary Japan  
5. When Nakamura Mondo gets angry – negative approach toward “justice”  
6. F.A. Hayek’s Liberalism – ignorant individualism and emphasis on tradition  
7. Hayek on Liberty – public created in free market  
8. What separates action of successful Japanese and U.S. people – comedy contest or social contribution?  
9. Democracy and liberalism  
11. Thought of human rights was for the wealthy and men · Criticism of human rights by A. Sen, C.A. MacKinnon  
12. Utilitarianism vs. Human rights – concerning euthanasia  
13. Illusion of freedom  
14. Sketchiness about right to self-determination – the things that control our <self-motivation>  
15. Second semester exam  

Grading Method:  
Based primarily on performance on first semester exam and second semester exam, but attendance will also be taken into consideration.  

Textbooks:  
No particular textbook will be assigned since resume and reference materials will be distributed in each class, but as for reference literature, I will mention them when the course begins (such as Akira HASEGAWA/Takeshi TSUNODA, Bridge Book Hou Tetsugaku (Bridge Book Philosophy of Law), Shinzansha Publisher Co., Ltd.)  

Other:  
Only serious students that attend every class are encouraged to enroll in this course.