

## The Hebrew University of Jerusalem

Syllabus

### THE RIGHT TO PRIVATE PROPERTY - 54126

Last update 16-02-2016

<u>HU Credits:</u> 2

Degree/Cycle: 1st degree (Bachelor)

<u>Responsible Department:</u> philosophy, economics & political sciences

<u>Academic year:</u> 0

Semester: 2nd Semester

Teaching Languages: English

<u>Campus:</u> Mt. Scopus

<u>Course/Module Coordinator:</u> Prof. Dani Attas

Coordinator Email: daniel.attas@mail.huji.ac.il

Coordinator Office Hours: Sunday 11:00-12:00

Teaching Staff:

#### Prof Daniel Attas

#### Course/Module description:

The course is intended for advanced undergraduates in PEP, Philosophy, Law or Political Science. In the first part we examine philosophical justifications and critiques of the right to private property from a historical perspective (Locke, Hume, Rousseau, Kant, Hegel, Mill, Marx). In the second part we engage analytically with contemporary discussions of the central issues concerning property such as the relation between property and freedom, the tension between property and equality, the idea of self-ownership, and the extension of the concept of tangible property to intellectual property, and to cultural property.

#### Course/Module aims:

acquaintance with the central philosophical questions (and the historical development of the discussion) regarding the concept of property and the justification of the right to private property.

# Learning outcomes - On successful completion of this module, students should be able to:

to describe the development of the philosophical discussion concerning the right to private property.

to distinguish the right to property from other non-proprietarian rights and arrangements.

to critically discuss the central philosophical issues concerning private property. to devise and formulate their position on the central issues and to justify it.

<u>Attendance requirements(%):</u> 100%

Teaching arrangement and method of instruction: lecture, seminar

#### Course/Module Content:

- 1. The Natural Law Tradition
- 2. The Scottish Enlightenment
- *3. Reason: Kant's Theory of Property*
- 4. Personhood: Hegel's Account of Property
- 5. Critique of Property
- 6. Utilitarianism
- 7. The Concept of Property

 8. Libertarianism: Property, Freedom, Taxation, Self Ownership and Original Appropriation
9. Rawls and Property
10. Intellectual Property
11. Property and Personhood
12. Cultural Property

12. Cultural Property

<u>Required Reading:</u> \*John Locke, Of Civil Government (1689), Chapter 5.

\*David Hume, A Treatise of Human Nature book III part 2 sections i-iv (1739-40).

\*I. Kant, The Metaphysics of Morals (1797), Private Right, §§1-17.

\*G.W.F. Hegel, The Philosophy of Right (1822), Property §§41-71.

\*Marx, Capital I (1867) section 8, Chaps 26-33.

\*J.S. Mill, Priciples of Political Economy (1848), Book II, Chaps. 1-3

\*Christman, J. (1994), 'Distributive Justice and the Complex Structure of Ownership', Philosophy and Public Affairs, Vol. 23, pp. 225-50.

\*R. Nozick, Anarchy State and Utopia, chapter 7, section I

\*J. Rawls, Justice as Fairness: a Restatement, §§1-4, 13-14,17-18, 41-42

\*Moore, A. "A Lockean Theory of Intellectual Property", Hamline Law Review 21 (1997), pp. 65-108.

\*M. Radin, "Property and Personhood", Stanford Law Review 34 (1982) pp. 957-1015.

\*J. H. Merryman, "Two Ways of Thinking About Cultural Property", The American Journal of International Law 80 (4), (1986), pp. 831-853.

Additional Reading Material:

Hugo Grotius, The Rights of War and Peace: Including the Law of Nature and Nations (1625), Book II Ch. 2, §§i-vi, ch. 3, i-iii. Samuel Pufendorf, Of the Law of Nature and Nations (1672), Book IV, chaps 4-13 (in particular chaps. 4-5).

Francis Hutcheson, A System of Moral Philosophy (published posthumously 1755)

*Vol I, Book ii, Chapters 6-8 (in The Collected Works of Francis Hutcheson Volume V) Adam Smith, Lectures on Jurisprudence (published posthumously 1976). B report 1766 "Private Law", pp. 459-472 (up to "of contract")* 

J.J. Rousseau, A Discourse on Inequality (1755).

*Jeremy Bentham, Principles of the Civil Code, VIII-X (posthumously translated from French 1864)* 

Henry Sidgwick, The Principles of Political Economy, Book III, Chapter VI, "The Principles of Distributive Justice" (1887).

Hohfeld, W. N. (1919), Fundamental Legal Conceptions, New Haven, Yale University Press.

Honoré, A. M. (1987), 'Ownership', in Making Law Bind, Clarendon Press, Oxford. (Original version published in Oxford Essays in Jurisprudence, A.G. Guest (ed.), Clarendon Press, Oxford, 1961.)

*H. Steiner, 'The structure of a set of compossible rights' Journal of Philosophy LXXIV (1977) pp. 767-75.* 

G.A. Cohen, 'Freedom, Justice, and Capitalism' in History, Labour, and Freedom: Themes from Marx Oxford 1989.

*B. Fried, Wilt Chamberlain Revisited: Nozick's Justice in Transfer' and the Problem of Market-Based Distribution', Philosophy and Public Affairs 24 (1995): 226–245.* 

*B. Clark and H. Gintis, "Rawlsian Justice and Economic Systems" Philosophy and Public Affairs, 1978* 

*R. Krouse and M. McPherson, 'A "Mixed"-Property Regime: Equality and Liberty in a Market Economy', Ethics 97 (1986), pp. 119-138.* 

*E.* Hettinger, "Justifying Intellectual Property", Philosophy and Public Affairs, 18 (1) 1989, pp. 31-52

Hughes, 'The Philosophy of Intellectual Property', Georgia Law Review 77 (1988/89) pp. 287-366 (esp. 330-366).

*M.* Radin, "Residential Rent Control", Philosophy and Public Affairs 15 (1986), pp. 350-380.

J. H. Merryman, "The Public Interest in Cultural Property", California Law Review 77, (1989) pp. 339-364.

<u>Course/Module evaluation:</u> End of year written/oral examination 0 % Presentation 0 % Participation in Tutorials 10 % Project work 90 % Assignments 0 % Reports 0 % Research project 0 % Quizzes 0 % Other 0 %

<u>Additional information:</u> none