

THE INSTITUTE OF ECONOMIC AND POLITICAL STUDIES

LONDON

LAW AND SOCIETY

SYLLABUS:

This course provides a general introduction to the sources of law of the English and Welsh legal system and how that law is implemented and enforced. It starts with a general outline of the various sources that the United Kingdom draws upon for its law, which will be discussed in more detail throughout the course. It then explains the relationship that exists between the three institutions that make up the constitution of the United Kingdom, the executive, the legislature and the judiciary, and their respective parts in the law-making process. The course then covers how legislation is created through Parliament and the political process which led to the enactment of the Human Rights Act, and the effect the Act has had on the traditional relationship between Parliament and the Courts. The course then outlines the role of the courts and the court structure and the methods the judiciary use to interpret legislation through the courts. Judicial law-making is then discussed through the development of the common law and how judges create law through case law and the system of precedent. The course then focuses on the area of judicial review, which is the means by which the courts control the exercise of governmental power and the conflict this creates between the executive and the judiciary. Finally, the course focuses on the European Community and Union and how community law is incorporated into United Kingdom law.

LECTURE OUTLINE:

1. Introduction to the course and the sources of law

This lecture introduces the course and outlines the sources of law such as legislation, case law, the European Union, the Human Rights Act and other international treaties.

Reading:

Chapter 3: The Legal System, K.Malleson (London, Butterworths, 2003).

2. The separation of powers

This lecture defines the three institutions which make up the constitution of the United Kingdom: the executive, the legislature and the judiciary, and the relationship between them.

Reading:

Chapter 5: Constitutional and Administrative Law, H. Barnett (London: Cavendish Publishing, 2004).

Chapter 9: Studies in Constitutional Law, C. Munro (2nd Ed, London: Butterworths, 2002).

3. Parliament (I): The House of Commons and the legislative process

This lecture outlines the functions of Parliament, the personnel of the House of Commons and the legislative process through the House of Commons.

Reading:

Chapters 14 and 15: Constitutional and Administrative Law, H. Barnett (London: Cavendish Publishing, 2004).

Chapter 5: The Legal System, K.Malleson (London, Butterworths, 2003).

Chapter 6: Cases and Materials on Constitutional and Administrative Law, M. Allen and B. Thompson (London: Blackstone Press, 2000).

4. Parliament (II): The House of Lords and the legislative process

This lecture outlines the composition of the House of Lords and the legislative process through the House of Lords, and also outlines the proposed reforms to the House of Lords.

Reading:

Chapter 17: Constitutional and Administrative Law, H. Barnett (London: Cavendish Publishing, 2004).

Chapter 2: Cases and Materials on Constitutional and Administrative Law, M. Allen and B. Thompson (London: Blackstone Press, 2000).

Chapter 5: Studies in Constitutional Law, C. Munro (2nd Ed, London: Butterworths, 2002).

5. The Human Rights Act 1998

This lecture outlines the long political process which led to the enactment of the Human Rights Act and the changes it has brought about to the legal system in England and Wales. It discusses the effect the Act has had on the traditional relationship between the courts and Parliament.

Reading:

Chapters 19: Constitutional and Administrative Law, H. Barnett (London: Cavendish Publishing, 2004).

Chapter 4: The Legal System, K.Malleson (London, Butterworths, 2003).

Chapter 7: Cases and Materials on Constitutional and Administrative Law, M. Allen and B. Thompson (London: Blackstone Press, 2000).

Chapter 10: Studies in Constitutional Law, C. Munro (2nd Ed, London: Butterworths, 2002).

6. The role of the courts and the court structure

This lecture outlines the court structure in England and Wales and explains the differences between the lower trial courts and the top appellate courts and their role in the law-making process.

Reading:

Chapter 2: The Legal System, K.Malleson (London, Butterworths, 2003).

Chapters 3 and 4: The English Legal System, G. Slapper and D. Kelly (London: Cavendish, 2003).

7. Statutory interpretation and the role of the courts

This lecture outlines the two approaches the courts use, the literal approach and the purposive approach, when interpreting statutes and discusses whether judges are just interpreting the will of Parliament or whether they are creating law. It also discusses the effect the Human Rights Act has had on statutory interpretation.

Reading:

Chapter 6: The Legal System, K.Malleson (London, Butterworths, 2003).

Chapter 5: The English Legal System, G. Slapper and D. Kelly (London: Cavendish, 2003).

8. Case law, precedent and judicial law-making

This lecture explains the rules of precedent which determine when courts are bound by earlier decisions and compares the common law system with that of civil law countries. It discusses whether judges do create law and whether judges should be creating law.

Reading:

Chapter 7: The Legal System, K.Malleson (London, Butterworths, 2003).

Chapters 2.3: The English Legal System, G. Slapper and D. Kelly (London: Cavendish, 2003).

9. Judicial review

This lecture outlines the means by which the courts control the exercise of governmental power to ensure that government departments, local authorities, tribunals, state agencies and agencies exercising powers which are governmental in nature are acting in a lawful manner.

Reading:

Chapters 26 and 27: Constitutional and Administrative Law, H. Barnett (London: Cavendish Publishing, 2004).

Chapters 8 and 9: Cases and Materials on Constitutional and Administrative Law, M. Allen and B. Thompson (London: Blackstone Press, 2000).

10. The European Community and Union

This lecture outlines the sources of European Community law and how community law is incorporated into the English and Welsh legal system as a source of law.

Reading:

Chapters 8 and 9: Constitutional and Administrative Law, H. Barnett (London: Cavendish Publishing, 2004).

Chapter 3: Cases and Materials on Constitutional and Administrative Law, M. Allen and B. Thompson (London: Blackstone Press, 2000).

Chapter 6: Studies in Constitutional Law, C. Munro (2nd Ed, London: Butterworths, 2002).

Chapters 13: The English Legal System, G. Slapper and D. Kelly (London: Cavendish, 2003).

11. Course review

This lecture will be an overview of the course.

COURSE STRUCTURE:

There will be a lecture and a seminar each week. The seminars will consist of presentations and discussions on the material covered in the previous weeks lecture.

ASSESSMENT:

Seminar discussion

Two essays of at least 2500 words

the first to be submitted at the end of week 5

the second to be submitted at the end of week 12

Note: If enrolment for this particular course is too low for it to be held as a two hour seminar with two required essays per semester it may be possible to run it as a one hour supervision with three essays per semester.