

LEGAL PHILOSOPHY

**Bachelor in Philosophy, Politics, Law and Economics PPLE
SEP-2023 LP-PP.2.S.A**

Area Public Law and Global Governance

Number of sessions: 30

Academic year: 23-24

Degree course: SECOND

Number of credits: 6.0

Semester: 2^o

Category: COMPULSORY

Language: English

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SUBJECT DESCRIPTION

Legal Thought introduces students to the main features of a number of legal theories and a number of theories of justice. The course will further introduce the students to some conceptual approaches towards core legal notions (what is 'law', what is 'right', what is 'obligation', what is 'justice', what is 'equality', what is 'dignity', what is 'liberty'...) and a theoretical framework of legal interpretation. The course will further deal with some 'applications' of legal philosophy, such as for instance global justice, human rights, critical legal studies (including feminist legal studies), challenges for capitalist democracy raised by legal automation, artificial intelligence, climate change, global and national inequality, etc.

LEARNING OBJECTIVES

- Main legal theories (natural law, positivism, interpretive theories of law, realist theories of law, ...)
- Main theories of justice (utilitarianism, economic analysis of law, Rawls and other re-distributive theories of justice, libertarian theories of justice.
- Conceptual thinking about core legal notions (what is 'law', what is 'right', what 'obligation', what is 'rule', what is 'equality', what is 'dignity', what is 'liberty', ...)
- Theories regarding legal interpretation ('discretion', Dworkin, ...)
- The possibilities of applying philosophical thinking to broad challenges and problems that humanity and capitalist democracies are currently facing: such as global warming, human rights under threat, artificial intelligence, political unrest, etc.
- Human dignity (SDG 5): Different conceptions of Human Dignity, Human rights and its relation to Human Dignity.
- Equality (SDG 8, SDG 4, SDG 3, SDG 9, SDG 10): Equality before the Law, Equality and Democracy, Equality and Human Dignity, John Rawls or Justice as Fairness, including inter-generational duties of justice, John Locke, theory of property, duty of charity.
- Global poverty: Assistance-based theories of global justice, Contribution-based theories of global justice, Capabilities-theory, Poor Economics, Problems of Global Justice, Why Nations Fail.
- Gender (SDG 3, SDG 4, SDG 5, SDG 10): Critical Feminist Studies and the hidden bias of the law.
- Climate justice (SDG 12, SDG 13, SDG 14, SDG 15, SDG 16): Intergenerational duties of justice.

TEACHING METHODOLOGY

At some point in her/his career or life, each professional of the law will be faced with hard questions regarding justice and law's moral dimension. Legal Thought is a course designed to provide a strong intellectual framework for future lawyers that equips them with the basic philosophical notions to address these hard questions, and to assess them critically and independently. It aims at lowering the barrier of taking up a theoretical text and of learning how to enjoy the intellectual stimulation they provide. In a society where the attention-span is seemingly forever decreasing, the capacity to read and process thought-provoking texts of article- or book-length will be an asset for everyone concerned about the future of law and society.

The course is therefore designed as a reading course, where students should read ahead of most sessions, and the sessions themselves are used 1. to briefly explain the texts prepared, and 2. to show how they can be profitably put to use to address present-day existential challenges.

Learning will be based on three main methods:

1. Lectures, in which the students will be provided with the overall view of a specific aspect of legal thought. The students will have to prepare each session with assigned readings, which will be confirmed or defined in due time, and which can be evaluated. During the lectures, students are expected to collaborate by answering questions of the professor (cold-calling and volunteering) and by participating in debates.
2. Independent work at home, which will be written by students and, if considered appropriate, presented in subsequent sessions.
3. Case studies and exercises, in which texts or topics will be presented and discussed, individually or in groups.

IE University teaching method is defined by its collaborative, active, and applied nature. Students actively participate in the whole process to build their knowledge and sharpen their skills. Professor's main role is to lead and guide students to achieve the learning objectives of the course. This is done by engaging in a diverse range of teaching techniques and different types of learning activities such as the following:

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	41.33 %	62.0 hours
Discussions	41.33 %	62.0 hours
Exercises in class, Asynchronous sessions, Field Work	0.0 %	0.0 hours
Group work	0.0 %	0.0 hours
Individual studying	17.33 %	26.0 hours
TOTAL	100.0 %	150.0 hours

PROGRAM

SESSION 1 (LIVE IN-PERSON)

Description: ?Introduction to the course.?

SESSION 2 (LIVE IN-PERSON)

Description: ?Legal Theory I. ?

Other / Complementary Documentation: Queen v Dudley and Stephens

SESSION 3 (LIVE IN-PERSON)

Description: ?Legal Theory II?

Book Chapters: John Finnis, Natural Law and Natural Rights (ced)

SESSION 4 (LIVE IN-PERSON)

Description: ?Legal Theory III. ?

Book Chapters: Hart, The Concept of Law (ced)

SESSION 5 (LIVE IN-PERSON)

Description: ?Legal Theory IV ?

Book Chapters: Dworkin, The Model of Rules (ced)

SESSION 6 (LIVE IN-PERSON)

Description: ?Legal Theory IV ?

Book Chapters: Dworkin, Law's Empire (ced)

SESSION 7 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
and Human Rights

Description: ??Legal Theory V

Book Chapters: Dworkin, Is Democracy Possible Here? Chap. 2 Terrorism and Human Rights (ced)

SESSION 8 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
& Dignity and Human Rights?

Description: ?Legal Theory VI ?

Book Chapters: Dworkin, Justice for Hedgehogs, chap. 9 Dignity (ced)

SESSION 9 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
& Dignity and Human Rights?

Description: ?Legal Theory VII ?

Book Chapters: Dworkin, Is Democracy Possible Here? Chap. 3 Dignity and Religion (See Bibliography)

SESSION 10 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge
& Gender studies?

Description: ?Legal Theory VIII.

Article: Catherine MacKinnon: "Reflections on Sex Equality under Law" (The Yale Law Journal Vol. 100, No. 5, Centennial Issue (Mar., 1991), pp. 1281-1328 (48 pages) (ced))

SESSION 11 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge
& Gender studies

Description: ?Legal Theory IX?

Article: Amia Srinivasan, "Does Anyone Have the Right to Sex?" (London Review of Books, Vol. 40 No. 6 · 22 March 2018)

SESSION 12 (LIVE IN-PERSON)

Description: Theory of Justice I

Book Chapters: Peter Singer, Practical Ethics (ced)

SESSION 13 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Description: ?Theory of Justice II?

Book Chapters: John Rawls, Justice as Fairness (ced)

SESSION 14 (LIVE IN-PERSON)

Sustainability Topics:

- Environment
- Governance
- Social Challenge
- Economic Development

Description: ?Theory of Justice III

Book Chapters: John Locke, Second Treatise of Government, chap. 5 On Property (ced)

SESSION 15 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Description: ?Theory of Justice IV. ?

Book Chapters: Robert Nozick, Anarchy, State and Utopia (ced)

SESSION 16 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge

Description: ?Theory of Justice V. ?

Book Chapters: Dworkin, Is Democracy Possible Here? Chap. 4 Dignity and Taxes (See Bibliography)

SESSION 17 (LIVE IN-PERSON)

Sustainability Topics:

- Economic Development

Description: ?Theory of Justice VI.

Book Chapters: Richard Posner, "Introduction to Economic Analysis of Law" (ced)

Book Chapters: Fairfield, Can Law Keep It Up? (ced)

SESSION 18 (LIVE IN-PERSON)

Sustainability Topics:

- Economic Development

Description: ?Theory of Justice VII. ?

Book Chapters: Milton Friedman, "Distribution of Income"

Book Chapters: Hayek, Road to Serfdom (ced)

SESSION 19 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Description: ?Theory of Justice VIII

Book Chapters: Catherine Pistor, Code of Capital (ced)

Book Chapters: Murphy and Nagel, The Myth of Ownership (ced)

Book Chapters: Thomas Picketty, Capital in the Twenty-First Century (ced)

SESSION 20 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Description: ?Applied Philosophy of Law I: Global Justice ?

Book Chapters: Peter Singer, Famine, Affluence and Morality (ced)

Book Chapters: Stephen Pinker, Enlightenment Now, chap. 8 Wealth (ced)

SESSION 21 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Description: ?Applied Philosophy of Law II: Global Justice

Book Chapters: Thomas Pogge, Priorities of Global Justice (ced)

Book Chapters: Daron Acemoglu y James A. Robinson, Why Nations Fail, chap. 13: How to Win the Lottery in Zimbabwe (ced)

Book Chapters: Miller, Globalizing Justice, chap. 5 Histories of Destruction (ced)

Book Chapters: Chomsky, Who Rules the World; Nair, Dismantling Global White Privilege (ced)

SESSION 22 (LIVE IN-PERSON)

Sustainability Topics:

- Governance

Description: ?Applied Philosophy of Law III: Global Justice ?

Book Chapters: Thomas Nagel, "The Problem of Global Justice" (ced)

SESSION 23 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge

Description: ?Applied Philosophy of Law IV: Global Justice. ?

Book Chapters: Kwame Anthony Appiah, Cosmopolitanism, chap. 8 Whose Culture is it Anyway? (ced)

Book Chapters: Martha Nussbaum, Cosmopolitanism, a noble but flawed ideal (See Bibliography)

SESSION 24 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Description: ?Applied Philosophy of Law V: Global Justice. ?

Book Chapters: Amartya Sen, The Idea of Justice, chap. 1 Introduction (ced)

Book Chapters: Martha Nussbaum, Frontiers of Justice

SESSION 25 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Description: ?Applied Philosophy of Law VI: Global Justice. ?

Book Chapters: Abhijit Banerjee and Esther Duflo, Poor Economics (See Bibliography)

Book Chapters: Branko Milanovic, Global Inequality (See Bibliography)

SESSION 26 (LIVE IN-PERSON)

Sustainability Topics:

- Environment
- Governance

Description: ?Applied Philosophy of Law VII: Global Justice ?

Book Chapters: Henry Shue, Climate Justice, chap. The Pivotal Generation (ced)

SESSION 27 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Description: ?Applied Philosophy of Law VIII: Democracy ?

Book Chapters: Martin Wolf, The Crisis of Democratic Capitalism (See Bibliography)

Book Chapters: Gary Gerstle, The Rise and Fall of the Neoliberal Order (See Bibliography)

Book Chapters: Francis Fukuyama, Liberalism and Its Discontents (See Bibliography)

SESSION 28 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge

Description: ?Applied Philosophy of Law IX: Democracy?

Book Chapters: Michael Sandel, Democracy and its Discontents

Book Chapters: Hannah Arendt, The Origins of Totalitarianism

SESSION 29 (LIVE IN-PERSON)

Sustainability Topics:

- Environment
- Social Challenge

Description: ?Applied Philosophy of Law X: Democracy. ?

Book Chapters: Abhijit Banerjee and Esther Duflo, Good Economics for Hard Times

Book Chapters: Iversen and Soskice, Democracy and Prosperity

SESSION 30 (LIVE IN-PERSON)

EXAM

EVALUATION CRITERIA

A. GENERAL OBSERVATIONS

Each student has four attempts over two consecutive academic years to pass this course. Dates and location of the final exam will be posted in advance and will not be changed. University policy regarding minimum attendance is applicable. Students who do not comply with the minimum attendance rules will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year). Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

B. EVALUATION AND WEIGHTING CRITERIA

See below for more details. Ongoing evaluation includes class participation which includes the comments, discussions, and questions and answers exchanged during the lectures, exercises and case studies. Effective comprehension of the assigned readings is an essential factor for the evaluation of class participation, and readings might be tested. Ad hoc written assignments covering subjects dealt with during the lectures might be counted for as ongoing evaluation. Readings and exercises can also be tested by peer-to-peer evaluation. Any deliverable in a session in which the student is absent for whatever reason will be graded with 0/10. Case studies and in-class exercises will include, as instructed by the professor, the preparation and handing in of summaries, papers, commentaries on legal texts, commentaries on sources other than legal texts, or essays, as well as the oral presentation and discussion of case materials, either individually or in group. Evaluation will depend on the depth, quality, clarity, and frequency of the contributions. Other deliverables can include participation in discussion boards, tests, short written answers, etc. The final exam will consist in a written or oral explanation or consideration of one or more particular aspects of the content of the course. The exam will consist in a combination of multiple-choice questions, essay-questions, insight questions, commentaries on legal texts or other sources, and a series of short question-and-answers. The exam will cover everything that students have learned during the course, including lectures, exercises, readings, case discussions and group exercises during the entire course. Detailed announcements regarding readings ahead of each session, assignments, case studies and other materials/requirements to pass the course will be made in due time via BlackBoard, and students must consult the announcement section on BlackBoard and their IE e-mail address on a daily basis.

C. RETAKE POLICY

Any student whose weighted final grade in the first (or third) call is below 5 will be required to sit for the retake exam in order to pass the course (except those not complying with the attendance rules, who go directly to the third call). Grading for retakes will be subject to the following rules:

The retakes will consist of a comprehensive written or oral exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.

The passing grade for the retake is 5 and the grade is capped at 8 out of 10. The third attempt will require the student to complete a final exam (oral or in writing).

Dates and location of the retakes will be posted in advance and will not be changed.

In the third call the student will be required to write a paper. The argument of the paper and a timeline for delivery will have to be agreed with the professor in the first two weeks of the corresponding term. The paper will count for 50% and the exam also for 50%.

criteria	percentage	Learning Objectives	Comments
Final Exam	30 %		
Other	70 %		Other activities of ongoing evaluation

RE-SIT / RE-TAKE POLICY

BIBLIOGRAPHY

Recommended

- Joshua Fairfield.. (2021). *Runaway Technology: Can Law Keep it Up?*. Cambridge University Press. ISBN 9781108444576 (Printed)
- Ronald Dworkin. (2008). *Is democracy possible here?: principles for a new political debate*. Princeton. ISBN 9781400827275 (Printed)
- Abhijit Banerjee and Esther Duflo. (2012). *Poor Economics..* Reprint edición.. PublicAffairs. ISBN 1610390938 (Printed)
- Branko Milanovic. (2018). *Global inequality : a new approach for the age of globalization...* The Belknap Press of Harvard University. ISBN 9780674984035 (Printed)
- Gary Gerstle. *The Rise and Fall of the Neoliberal Order...* Oxford University Press. ISBN 9780197519660 (Printed)
- Francis Fukuyama. *Liberalism and its Discontents...* Profile Books. ISBN 9781782839705 (Printed)
- Martin Wolf. (2023). *The Crisis of Democratic Capitalism*. Penguin. ISBN 9780735224216 (Printed)
- Martha Nussbaum. *The Cosmopolitan Tradition. A Noble but Flawed Ideal*. Belknap of Harvard University Press. ISBN 9780674052499 (Printed)
- Torben Iversen and David Soskice. *Democracy and Prosperity. Reinventing Capitalism Through a Turbulent Century*. Princeton University Press. ISBN 9780691182735 (Printed)

BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

ATTENDANCE POLICY

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

ETHICAL POLICY

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.

