

LEGAL THOUGHT

Bachelor of Laws LLB [2504110] SEP-2023 LT-NLL.1.S.A

Area Public Law and Global Governance

Number of sessions: 30

Academic year: 23-24

Degree course: FIRST

Number of credits: 6.0

Semester: 2^o

Category: BASIC

Language: English

Professor: **BORISLAVA KROUMOVA DJONEVA**

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Borislava Djoneva has law degrees from the University St. Climent, Sofia and UNED, Madrid, has specialized diplomacy at the University of Oxford and followed global leadership course at the Harvard Kennedy School. During her career as an international law advisor and diplomat she has drafted and/or negotiated more than 30 bilateral and multilateral agreements. Ms. Djoneva has published numerous articles on international affairs and law. From 2018 to 2021 she has co-chaired the Working Group on Legal Matters of EUFASA.

Office Hours

Office hours will be on request. Please contact at:

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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.

To become familiarized with the different theories about the social, moral, and cultural foundations of law. To explore the nature of legal reasoning and its specificities. To reveal the challenge of legal theoretical questions for our moral and political systems and thereafter for the entire society and consequently the responsibility lawyers have for critical thinking, humanistic approach and respect for the truth, no matter how abstract.

To consolidate concepts and theories acquired in other subjects through the critical reflection about them, and its contextualization in broader theories about the nature of law, and the nature of political body and society.

TEACHING METHODOLOGY

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
Individual studying	17.33 %	26.0 hours
TOTAL	100.0 %	150.0 hours

PROGRAM

SESSION 1 (LIVE IN-PERSON)

Introduction : What is Law? What is Justice? Is it moral?

Legal Theory I: Concepts of Law, Moral and Justice in Antiquity. Middle East, Asian and Pre-Colombian Cultures.

Practical Case: The Queen v. Dudley and Stephens (December 9, 1884) (Jurisdiction of High Court)

Article: Before and after Columbus (NWIG, Netherlands, Vol. 68) (CED) (Optional)

Book Chapters: China's legal soul: the modern Chinese legal identity in historical context (See Bibliography)(Optional)

SESSION 2 (LIVE IN-PERSON)

Legal Theory II

- The Greek Natural Law Tradition
- Natural Rights in Roman Ius Gentium

Book Chapters: Antigone (s-c)

Book Chapters: Crito (s-c)

Article: Understanding the concept of ius naturale in ancient Roman Law (Journal of European History of Law 2018) (CED) (Optional)

Book Chapters: SPQR (See Bibliography)(Optional)

SESSION 3 (LIVE IN-PERSON)

Legal Theory II: The Christian Natural Law Tradition

Book Chapters: The concept of Law, chapters V and VI (CED)

Book Chapters: Summa Theologica (I-IIae, q.90, q. 94 and q. 95 –pages 2261-2267 and 2297-2317)

Article: John Calvin as 'public theologian' in view of his 'Commentary on Seneca's de Clementia (HTS Theological Studies, 2018) (CED) (Optional)

SESSION 4 (LIVE IN-PERSON)

Legal Theory III: New Classical Natural Law Theory.

Book Chapters: Natural Law and Natural Rights (pages 81-97; 281-290; 354-362) (CED)

Book Chapters: The concept of Law (Chapters V and VI) (CED)

SESSION 5 (LIVE IN-PERSON)

Legal Theory IV: Legal positivism

Article: Positivism and the separation of law and morals (Harvard Law Review, February 1958, Number 4) (CED)

SESSION 6 (LIVE IN-PERSON)

Legal Theory V: Integrity in Law. Critical approach to the new positivism.

SESSION 7 (LIVE IN-PERSON)

Sustainability Topics:

- Governance

Legal Theory VI: H.L.A. Hart

Book Chapters: The Concept of Law (Chapters V and VI) (CED)

SESSION 8 (LIVE IN-PERSON)

Sustainability Topics:

- Governance

Legal Theory VII: R. Dworkin

Book Chapters: Taking Rights Seriously (Chapter 2) (CED)

SESSION 9 (LIVE IN-PERSON)

Sustainability Topics:

- Governance

Legal Theory VIII: R. Dworkin.

Book Chapters: Law's Empire (Chapters 7 and 11) (CED)

SESSION 10 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Legal Theory IX: Exercise on topics covered in previous sessions.

Practical Case: Riggs v. Palmer (115 NY 506) (Court of Appeals of New York)

SESSION 11 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Theories of Justice I: Introduction.

SESSION 12 (LIVE IN-PERSON)

Theories of Justice II: Utilitarianism - J. S. Mill

Book Chapters: Utilitarianism (Chapter V) (CED)

SESSION 13 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Theories of Justice III: Egalitarianism

Article: Was Karl Marx a Public-Choice Theorist? (The Independent Review v24 n4 (Spring 2020): 509-520) (CED) (Optional)

SESSION 14 (LIVE IN-PERSON)

Sustainability Topics:

- Environment
- Governance
- Social Challenge
- Economic Development

Theories of Justice IV: J. Locke

Book Chapters: Two Treatises of Government (pages 27-51, 285-302) (CED)

SESSION 15 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Theories of Justice V: R. Nozick vs. J. Rawls

Book Chapters: Anarchy, State and Utopia (Chapter 7, section I) (CED)

Article: Justice and Fairness (The Philosophical Review, 1958) (CED)

SESSION 16 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge

Theories of Justice VI: Libertarianism

SESSION 17 (LIVE IN-PERSON)

Sustainability Topics:

- Economic Development

Theories of Justice VII: Law and Economics. Guido Calabresi.

SESSION 18 (LIVE IN-PERSON)

Sustainability Topics:

- Economic Development

Theories of Justice VIII: Martha Nesbaum and Amartya Sen.

SESSION 19 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Theories of Justice IX: Exercise on topics covered in previous sessions.

Book Chapters: Frontiers of Justice (pages 69-81, 96-97, 284-298) (CED)

SESSION 20 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Applied philosophy of law I: Inheritance.

Is it moral to be a rich kid?

SESSION 21 (LIVE IN-PERSON)

Sustainability Topics:

- Social Challenge

Applied philosophy of law II: Wealth

Book Chapters: Capital in the Twenty First Century (Chapter 11) (CED)

SESSION 22 (LIVE IN-PERSON)

Sustainability Topics:

- Governance

Applied philosophy of law III: Inequality vs Fundamental Human Rights.

Article: Famine, Affluence and Morality (Philosophy & Public Affairs, Vol. 1, No. 3 (Spring, 1972), pp. 229-243) (CED)

Book Chapters: Enlightenment Now (Chapter 8) (CED)

SESSION 23 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge

Applied philosophy of law IV: Global Justice I

Book Chapters: Why Nations Fail (Chapter 13) (CED)

Book Chapters: Global Inequality (Chapter 4) (CED)

SESSION 24 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Applied philosophy of law V: Global Justice II

Book Chapters: The Idea of Justice (Introduction) (CED)

Article: The Problem of Global Justice (Philosophy & Public Affairs 33, no. 2) (CED)

SESSION 25 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Applied philosophy of law VI: Group Work

SESSION 26 (LIVE IN-PERSON)

Sustainability Topics:

- Environment
- Governance

Applied philosophy of law VII: Global Justice and the International Legal System

Article: The Parochial Uses of the Universal Jurisdiction (Notre Dame Law Review, 2019) (CED)
(Optional)

SESSION 27 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge
- Economic Development

Applied philosophy of law VIII: Group Work. Democracy and Law.

SESSION 28 (LIVE IN-PERSON)

Sustainability Topics:

- Governance
- Social Challenge

Applied philosophy of law IX: Technology and Law. Should Robots Pay Taxes?

Book Chapters: Runaway Technology (Chapter: Can Law Keep Up) (CED)

Other / Complementary Documentation: Secretary General's strategy on New Technologies (United Nations)(Optional)

SESSION 29 (LIVE IN-PERSON)

Sustainability Topics:

- Environment
- Social Challenge

Applied philosophy of law X: Facing XXI century.

Revision and final remarks.

SESSION 30 (LIVE IN-PERSON)

Exam

EVALUATION CRITERIA

GENERAL OBSERVATIONS

In-person attendance is mandatory at IE University, as it is an essential factor of IE's learning methodology. While we do closely monitor attendance in each course, we also consider our students responsible for their own agenda and commitments, as adult university students. With that in mind, each student may miss up to 20% of the sessions within a given course and still maintain the possibility of passing that given course. This 20% "buffer" is to be used for any absences, such as: illnesses, personal emergencies, commitments, official/governmental matters, business and/or medical appointments, family situations, etc. Students should manage their various needs, and situations that may arise, within that 20% buffer. If a student is absent to more than the allowed 20% of the sessions (regardless of the reason), s/he will obtain a 0.0 grade for that course in both the ordinary and extraordinary calls of the current academic year, and s/he will have to retake the course during the following academic year.

Extreme cases involving emergencies such as: extended hospitalizations, accidents, serious illnesses and other cases of force majeure, are to be consulted with the Program Management for assessment of the situation and corresponding documentation, in order to support and guide each student optimally. For more information about the university attendance policy, please check; <https://www.ie.edu/student-guide/bir/policies-and-guidelines/attendance/>.

EVALUATION PROCESS:

Participation: the depth and quality of your contributions will be the most important dimension regarding participation. Class conduct is also important. A high quality presentation of ideas must consider the relevance and timing of comments, and the flow and content of the ensuing class discussion. It demands comments that are concise and clear, and that are conveyed with a spirit of involvement in the discussion at hand.

A number of written assignments will be due in the course of the semester.

Essays will be submitted through Turnitin in online campus.

Essays will be marked according to Structure (25%), Style (25%) and Content (50%) which also includes the appropriate and correct use of sources. In each criteria, the following points have to be observed:

Structure:

- The general plan of the essay.
- The connection between ideas exposed.
- The inclusion of a conclusion.
- The existence of paragraphs corresponding to ideas or concepts.

Style:

- The absence of grammatical mistakes.
- The proper use of academic English corresponding to college level.
- The adequate use of sources and quotations.

Content:

- The level of originality in the essay.
- The argumentative level of the essay.
- The relevance of the information contained in it, without being a mere summary.
- The adequacy of the content to the question proposed.
- The logical connections between presentation of ideas and final conclusions.
- The relevance of such conclusions without being a mere tautology.

Group Work: you are also expected to complete a project with your group and present it. The project will give you the opportunity to reflect on what you have learnt in class and apply it to some practical issues. More details of the project will be provided in due course.

Final Exam: the specific format of the exam will be provided in due time.

GRADES;

The final grade will be weighted in the following manner:

criteria	percentage	Learning Objectives	Comments
Continuous evaluation	60 %		
Final Exam	30 %		
Class Participation	10 %		

RE-SIT / RE-TAKE POLICY

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

A student who has missed over 20% of the class meetings will not be allowed to take the retake exam, and will only have two attempts left to pass the course during the following year.

The maximum grade that students can obtain in the retake exam period is 8.0. In the second and fourth call only the grade of the exam will be taken into account. 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%.

The exam will cover everything that students have learned, including lectures and readings.

Grading for retakes will be subject to the following rules:

- The retakes (2nd and 4th call) will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.
- The third attempt will require the student to complete:
 - a written assignment: 50% 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.
 - a final exam: 50%.

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

BIBLIOGRAPHY

Recommended

- John W Head. (2009). *China's legal soul: the modern Chinese legal identity in historical context*. Carolina Academic Press. ISBN 1594606366 (Digital)
- Mary Beard. (2015). *SPQR: a history of ancient Rome*. Profile Books. ISBN 184765441X (Digital)

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.

