UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Philosophy of Law - A-L

2627-2-LMG01A006-AL

Learning objectives

The learning objectives of the Philosophy of Law A–L course are as follows:

- To provide knowledge of the principal theories in the philosophy of law and a critical understanding of the fundamental theoretical and philosophical issues concerning law, including law as language; the relationships between law, justice, power, and technology; the nature of legal norms and the distinction among different types of norms; law as a legal order; and the philosophical foundations of human rights.
  -To develop the ability to engage in autonomous, rigorous, and wide-ranging critical reflection on legal phenomena through the appropriate and rigorous use of the conceptual categories acquired during the course.
  -To provide the fundamental conceptual and methodological tools necessary to develop an autonomous, critical, rigorous, and systematic capacity for judgment regarding the main theoretical and philosophical issues related to law and legal phenomena.
  -To develop the ability to analyze and present concepts, theories, and arguments clearly and rigorously through the critical reading of texts and the use of appropriate and relevant theoretical and conceptual terminology.
  -To foster the ability to independently pursue further learning and reflection on philosophical issues and problems concerning law and legal phenomena through the critical reading of philosophical and legal texts.

Contents

PWhat is law? What are the characteristics of legal language? What are the relationships between law and morality, law and power, and law and technology? What are legal norms, and what different types of norms exist? What is the philosophical foundation of human rights?

These are some of the main questions that will be addressed in the Philosophy of Law A–L course.

The course is structured around three main thematic areas, all connected by the overarching question: “What is law?”
The first part of the course will be devoted to identifying the distinctive features of law as a form of language, in comparison with other forms of language (ordinary language and scientific language), and to the analysis of the fundamental legal concepts that underpin the construction of legal systems, such as responsibility, personhood, wrongful conduct, and legal obligation.
The second part will focus on the analysis of law as a system of norms and as a legal order, together with a reflection on the relationships between law and morality, and between law and power.
The third part will be dedicated to the philosophical foundations of human rights through an examination of the major theories that have emerged throughout history—including utilitarian, Aristotelian, and contractarian approaches—culminating in an analysis of human dignity as an appropriate foundation for human rights.

The course is taught in Italian.

Detailed program

1. Law as Language

1.1. What is language? What are its main problems, and how can they be addressed?

1.2. What distinguishes legal language from other forms of language?

1.3. What is the relationship between legal language, ordinary language, and the language of science?

1.4. What are the fundamental legal concepts, and how have their semantic and normative meanings evolved over time?

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2. Traditional and Contemporary Jurisprudential Theories

2.1. Natural Law Theory, Legal Positivism, and Legal Realism

2.2. Transhumanism, Bioconservatism, and Human Rights Theory

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3. From Law as Norm to Law as Legal Order

3.1. Imperativism

3.2. Institutionalism

3.3. Normativism

3.4. Kelsen’s Theory of the Legal Order

3.5. Problems of the Legal Order: Consistency and Completeness

3.6. Theories of Legal Interpretation

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4. The Relationship Between Law and Other Normative and Non-Normative Dimensions

4.1. Law and Morality

4.2. Law and the State

4.3. Law and Power

4.4. Law and Technology

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5. The Philosophical Foundations of Human Rights

5.1. Major Theories: Hedonism, Utilitarianism, Aristotelianism, the Naturalistic Fallacy, Methodological Individualism, and Normative Individualism

5.2. Social Contract Theories

5.3. The Human Dignity-Based Approach

5.4. Case Study: The Debate on Neurorights

The course is taught in Italian.

Prerequisites

Good command of the Italian language and a sound knowledge of legal subjects acquired during the first year of the Master's Degree Programme.

Teaching methods

Teaching will consist of a combination of lecture-based classes and a number of interactive sessions focused on the discussion of case studies. The course will also include in-depth seminars delivered by national and international experts in the field.

Teaching Materials and Methods:

- E-learning platform
- Use of PowerPoint presentations
- Case-study discussions and analysis of practical cases (if you wish to retain the meaning of casi concreti)

Assessment methods

Only oral examination

Assessment criteria will include:
Assessment of learning will consist of an oral examination covering the topics discussed during lectures and the reference texts indicated in the following section of this syllabus. Particular attention will be paid to the extent to which the learning objectives of the course have been achieved, including:

- Knowledge of the principal theories in the philosophy of law and a critical understanding of the fundamental theoretical and philosophical issues concerning law, including law as language; the relationships between law, justice, power, and technology; the nature of legal norms and the distinction among different types of norms; law as a legal order; and the philosophical foundations of human rights.
  -Acquisition of an adequate ability to develop an autonomous, rigorous, and wide-ranging critical reflection on legal phenomena through the appropriate and rigorous use of the conceptual categories acquired.
  -Acquisition of the fundamental conceptual and methodological tools necessary to develop an autonomous, critical, rigorous, and systematic capacity for judgment regarding the fundamental theoretical and philosophical issues related to law and legal phenomena.
  -Development of an adequate ability to analyze and present contents, theses, and arguments in a clear and rigorous manner through the critical reading of texts and the use of appropriate and relevant theoretical and conceptual terminology.
  -Development of an adequate ability to independently continue one's own learning and reflection on other philosophical issues and problems concerning law and legal phenomena through the critical reading of philosophical and legal texts.

In general, the assessment of the oral examination will place particular value on the student's ability to develop an independent critical reflection on the topics included in the examination syllabus.

Textbooks and Reading Materials

Students must prepare for the examination using either option (a) or option (b):

a)

Course materials, including:

1. PowerPoint presentations used during lectures;
2. Course notes;
3. Articles uploaded to the e-learning platform.

Please note that the lecture materials refer specifically to the current academic year.

OR

b)

The following texts must be studied (all of them, but only the chapters indicated):

1. Hans Kelsen, *Introduction to the Pure Theory of Law *(Einaudi edition), Chapters 1–8 only. From the appendix to the volume, students are also required to study the essay entitled Causality and Imputation.
2. Herbert L.A. Hart, *The Concept of Law* (Einaudi edition), Chapters 1–9 only.
3. S. Salardi, *Artificial Intelligence and the Semantics of Change: A Critical Reading* (available only in Italian Intelligenza Artificiale e semantica del cambiamento: una lettura critica), Giappichelli, 2023, Chapters 1–3 only.
4. Mandatory readings uploaded to the e-learning platform in the section entitled "Mandatory Readings for the Examination."

Important Notice
The difference between the two examination preparation options reflects the fact that the course addresses contemporary issues that have not necessarily yet been systematically treated in dedicated textbooks. Regular attendance is therefore strongly recommended in order to gain an up-to-date understanding of current debates and developments in legal philosophy.

Sustainable Development Goals

QUALITY EDUCATION | GENDER EQUALITY | PEACE, JUSTICE AND STRONG INSTITUTIONS