Philosophy of Law

Outline of the course

The course is an introduction to legal philosophy and justice, and is aimed at encouraging independent critical thinking and ability to substantiate arguments.

The course will explore a wide range of topics: among the many, the nature and content of law, its relation to morality, theories of legal interpretation, and the obligation to obey the law, as well as philosophical issues and problems associated with punishment and responsibility, liberty, and legal ethics. A special attention will be devoted to the concept, the nature, and content of justice, as well as its relation with the law: in this part, the course will analyse topics as affirmative action, income distribution, same-sex marriage, the role of markets, and arguments for and against equality. The final part of the course will explore the history of feminism and main topics of legal and political feminism.

**Learning objectives**

The course will give students the possibility to understand the different moral, political and legal approaches underlying institutional, judicial and social choices in today’s world.

The general part of the course of philosophy of law aims at providing students with basic notions concerning different theoretical horizons and philosophical concepts, which are necessary to deal in a conscious and mature way with the issues of contemporary philosophical and legal debate.

At the end of the course, students will be able to: describe philosophical theories framing special topics in philosophy of law; apply these theories to concrete situations; discuss competing points of view on issues in philosophy of law and formulate well-reasoned solutions to practical dilemmas.

**Knowledge assessment**

Written tests, oral and written reports with personal feedbacks on assignments to improve learning abilities, analysis of cases, oral examination; students will have the opportunity to take self-assessment tests to evaluate their achievement of learning outcomes (one tests will concern the part on Philosophy of Law and Justice, one the Biolaw module).

Class participation will also be evaluated.

The evaluation of skills will take place through a presentation on a topic assigned by the teacher: critical ability, the ability to argue and defend a thesis, as well as the ability to respond to criticism and objections will be evaluated. Above all, an ability to critically expound all the main positions on the topic, in a non-ideological way, will be required.

**Readings**

Readings will be indicated during the course, and will be available on the webpage of the University. Further (suggested) reading is: M. Sandel, Justice. What’s the Right Thing to Do?, Penguin, 2010.

**Topics**

1. Ethics and ethical dilemmas
   1. Our perception of ethics; everyday choices and ethical dilemmas; moral doctrines and subjective beliefs.
2. Justice and theories of justice
   1. Consequentialism and deontology; utilitarianism; liberalism; libertarianism.
3. Freedom
   1. Positive and negative freedom; The divided self; freedom, paternalism and authoritarianism.
   2. Kant; Freedom and/or happiness; Autonomy and Heteronomy; Categorical and Hypothetical imperatives
4. The State
   1. The individual and the community; individualism and communitarianism; Locke and the idea of a social contract.
   2. Do we have reasons to obey the law?
   3. Aristotle and the naturally political subject.
   4. Rawls; the Veil of ignorance; justice as fairness.
5. Feminism and legal feminism
   1. History of feminism
   2. Main topics and challenges of legal feminism
   3. Intersectionality and critical theories.
6. Students will also be invited to discuss specific topics with their colleagues. Among the many, we will analyse:
   1. Human body: ownership or embodiment? Organ market; Torture; Prostitution; Surrogacy; Vaccines (should they be compulsory?)
   2. Social Justice: Definition and main approaches; Citizen’s Income / universal basic income; Taxes and redistribution; Civic duties (military service, jury duty, etc…)
   3. Freedom of speech; Hate speech; Pornography; Fake news.
   4. Diverse societies and the need of social cohesion; Veils and ostensible religious symbols; Limits to migration: open or closed borders? Identity, traditions and pluralism.
   5. Feminism: approaches and theories; Affirmative actions; gender roles, gender stereotypes, gender identities; Transsexuals and intersexual; Same sex marriage, and adoption.