LEGAL THEORY

BACHELOR IN POLITICS, LAW AND ECONOMICS

Professor: BART WAUTERS

E-mail: bwauters@faculty.ie.edu

Academic year: 18-19
Degree course: SECOND
Semester: 2º
Category: BASIC
Number of credits: 6.0
Language: English

PREREQUISITES

SUBJECT DESCRIPTION

Any professional at some point will find him- or herself in a situation where he/she will need to find the right balance between moral sensibility and rational argument. This discernment, however, cannot be met without being acquainted to some degree with theoretical, albeit fascinating, questions such as: What is law? What is the difference between a moral rule and a legal rule? What is a rule? What is a right? Do we have meta-rules? What do we do when we interpret a law? What is the best system of rules? What is the relationship between law and values like freedom, equality and justice? What is responsibility? Is human dignity a ground for justice or human rights? Is justice a value we only owe to fellow citizens, or to all citizens of this world?

OBJECTIVES AND SKILLS

1. 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.

2. 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.
## METHODOLOGY

<table>
<thead>
<tr>
<th>Teaching methodology</th>
<th>Weighting</th>
<th>Estimated time a student should dedicate to prepare for and participate in</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lectures</td>
<td>41.33 %</td>
<td>62 hours</td>
</tr>
<tr>
<td>Discussions</td>
<td>0.0 %</td>
<td>0 hours</td>
</tr>
<tr>
<td>Exercises</td>
<td>41.33 %</td>
<td>62 hours</td>
</tr>
<tr>
<td>Group work</td>
<td>0.0 %</td>
<td>0 hours</td>
</tr>
<tr>
<td>Other individual studying</td>
<td>17.33 %</td>
<td>26 hours</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100.0 %</td>
<td>150 hours</td>
</tr>
</tbody>
</table>
PROGRAM

SESSION 1
Introduction

SESSION 2
Queen v. Dudley
T.N.: Queen v Dudley and Stephens

SESSION 3
The Greek Natural Law Tradition
T.N.: The Republic
T.N.: Antigone

SESSION 4
The Christian Natural Law Tradition
T.N.: Summa Theologica
B.C.: Natural Law and Natural Rights (pp. 81-97)

SESSION 5
HLA Hart
B.C.: The Concept of Law (pp. 79-123)

SESSION 6
HLA Hart
B.C.: Taking Rights Seriously (Chapter II: The Model of Rules I)

SESSION 7
Dworkin - Law's Empire
T.N.: Law's Empire (pp. 225-275, 400-413)

SESSION 8
Dworkin - Law's Empire
T.N.: Riggs v Palmer

SESSION 9
Legal Realism and Critical Legal Studies
B.C.: Reflections on Sex Equality under Law (pp. 609-616 (The philosophy of law : classic and contemporary readings with commentary, eds. Frederick F. Schauer and Walter Sinnott-Armstrong
SESSION 10
Utilitarianism

SESSION 11
Economic Analysis of Law
R.A.: Values and Consequences: An Introduction to Economic Analysis of Law

SESSION 12
John Rawls: Justice as Fairness
Other: Justice as Fairness

SESSION 13
Robert Nozick
B.C.: Anarchy, State, and Utopia (pp. 150-163; 232-246; 271-275)

SESSION 14
John Locke
B.C.: Two Treatises on Government (pp. 285-302 (paragraphs 25-51 of the Second Treatise))

SESSIONS 15 - 16
Inheritance
B.C.: Capital in the Twenty-First Century (Chap. 11: 'Merit and Inheritance in the Long Run')

SESSION 17
Ronald Dworkin and Human Rights
B.C.: Is democracy possible here? (Chap. 2: Terrorism and Human Rights)

SESSION 18
Ronald Dworkin on Religion
T.N.: Is Democracy Possible Here? (Chap. 3: Religion and Dignity)

SESSION 19
Ronald Dworkin on Dignity
B.C.: Justice for Hedgehogs (Chap. 9: Dignity)
SESSION 20
Dworkin on Taxes
*B.C.: Is Democracy Possible Here? (Chap. 4: Taxes and Legitimacy)*

SESSION 21
Peter Singer
*R.A.: Famine, Affluence, and Morality*

SESSION 22
Thomas Pogge: Priorities of Global Justice
*R.A.: Priorities of Global Justice*

SESSION 23
Thomas Nagel: The Problem of Global Justice
*R.A.: The Problem of Global Justice*

SESSION 24
Amartya Sen - The Idea of Justice
John Rawls - The Law of Peoples
*B.C.: The Idea of Justice (Introduction (pp. 1-27))*
*B.C.: The Law of Peoples (Paragraphs 1-4 (pp.11-44) (=pp.11-44 in the Harvard University Press First Paperback edition 2001))*

SESSION 25
Branko Milanovic
*B.C.: Global Inequality. A new approach for the age of globalization (Chapter 4 (Global Inequality in this Century and the Next) - The Belknap Press of Harvard University Press, 2016, pp.155-211) *

SESSION 26
Cosmopolitanism
SESSION 27
Quasi-cosmopolitanism
B.C.: Globalizing Justice. The Ethics of Poverty and Power (Chapter 8 ('Quasi-Cosmopolitanism')
Oxford University Press, 2010, pp. 210-237.)

SESSION 28
Risse
B.C.: On Global Justice (Chapter 6 (Our sole habitation: a contemporary approach to collective
ownership of the earth), Princeton University Press 2012, pp. 108-129)

SESSION 29
Risse
B.C.: On Global Justice (Chapter 8 (Proportionate Use: Immigration and Original Ownership of the
B.C.: National Responsibility and Global Justice (Chapter 8 (Immigration and Territorial Rights)
Oxford University Press, 2007, pp. 201-230)

SESSION 30
Exam
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. Attendance is mandatory and students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule 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.

RETAKE 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 30% 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.
Final Exam 20 % The Final Exam in the ordinary call will be an open book exam. You are allowed to bring whatever material you want to the exam, including your notes and your computer. You will not be allowed to have access to the internet. There will be 2 or 3 questions at the exam, and you will have to choose which one you will answer. You will answer only 1 question in essay format. The exam takes 80 minutes. In the extraordinary call, the exam will be closed book. You will get two questions and you will have to answer both of them. The exam lasts 80 minutes.

Class Participation 40 % Class participation will be graded based on the quality and quantity of your interventions in class. You must prepare the relevant readings ahead of each session and these readings can be tested. Test results will form part of the grade for participation. Additionally, you will be cold-called in class on the readings. Furthermore, online discussion groups may be started at the discretion of the instructor, and your participation there may be graded as well. Finally, any other form of participation at the choice of the instructor can form part of the grade for participation.

Assignments 40 % A number of written assignments will be due in the course of the semester. Details will be announced via Campus.
PROFESSOR BIO

Professor: BART WAUTERS
E-mail: bwauters@faculty.ie.edu

Bart Wauters is full-time professor at IE Law School. He holds a PhD (2004) in Legal History from the University of Leuven (Belgium). For several years he lectured at the Law Schools of the Universities of Leuven and Antwerp (Belgium) on subjects regarding metajuridical subjects. His areas of research are the history of legal theory, the history of canon law and the history of the idea of property.

Prof. Wauters is also member of the Board of Directors at Miko (NYSE Euronext Brussels: MIKO).
E-mail: bwauters@faculty.ie.edu
Office hours: contact by e-mail to schedule tutorials or 1-2-1 meetings

OTHER INFORMATION
USE OF ELECTRONIC DEVICES IN CLASS
This subject requires the use of a laptop or other internet devices in class.

CODE OF CONDUCT IN CLASS

1. **Be on time**: Students arriving more than 5 minutes late will be marked as “Absent”.
   Only students that notify in advance in writing that they will be late for a specific session may be granted an exception (at the discretion of the professor).

2. **If applicable, bring your name card and strictly follow the seating chart.** It helps faculty members and fellow students learn your names.

3. **Do not leave the room during the lecture**: Students are not allowed to leave the room during lectures. If a student leaves the room during lectures, he/she will not be allowed to re-enter and, therefore, will be marked as “Absent”.
   Only students that notify that they have a special reason to leave the session early will be granted an exception (at the discretion of the professor).

4. **Do not engage in side conversation.** As a sign of respect toward the person presenting the lecture (the teacher as well as fellow students), side conversations are not allowed. If you have a question, raise your hand and ask it. If you do not want to ask it during the lecture, feel free to approach your teacher after class.
   If a student is disrupting the flow of the lecture, he/she will be asked to leave the classroom and, consequently, will be marked as “Absent”.

5. **Use your laptop for course-related purposes only.** The use of laptops during lectures must be authorized by the professor. The use of Social Media or accessing any type of content not related to the lecture is penalized. The student will be asked to leave the room and, consequently, will be marked as “Absent”.

6. **No cellular phones**: IE University implements a “Phone-free Classroom” policy and, therefore, the use of phones, tablets, etc. is forbidden inside the classroom. Failing to abide by this rule entails expulsion from the room and will be counted as one absence.

7. **Escalation policy**: 1/3/5. Items 4, 5, and 6 above entail expulsion from the classroom and the consequent marking of the student as “Absent.” IE University implements an “escalation policy”: The first time a student is asked to leave the room for disciplinary reasons (as per items 4, 5, and 6 above), the student will incur one absence, the second time it will count as three absences, and from the third time onward, any expulsion from the classroom due to disciplinary issues will entail 5 absences.