# Philosophy of Law

## Prof. Giovanni Bombelli

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to allow students to learn the fundamental themes and guidelines that characterise the philosophical approach to law, as well as understand its complexity also in the light of its corresponding historical-conceptual background.

The intended learning result is an in-depth knowledge of philosophical-legal issues concerning both the theoretical aspects and the projections in terms of legal experience, also in relation to today's complex context. More precisely, at the end of the course, students will have learned the fundamental legal-philosophical categories, they will have studied the main theoretical-legal models in depth and be able to reformulate the concepts and materials discussed in class with greater competence. Continuously stimulated to critically compare the different theoretical orientations, students will have developed the ability to autonomously carry out assessments regarding problems of philosophical-legal relevance. This perspective, methodologically based on the continuous importance given to the logical-systematic relationships underlying the topics discussed, will also favour the development of the learning skills. Finally, the progressive acquisition of an appropriate vocabulary, along with the development of their ability to correctly use the argumentative modules of the philosophy of law, will allow students to improve communication skills.

***COURSE CONTENT***

The course focuses on some traditional issues of the philosophy of law and is divided into two related core themes.

The first core theme is dedicated to the analysis of “classical” categories, institutes and theoretical models: concept of “philosophy of law”; justification of the notion of legal “obligation” (in the polarity natural law vs. conventionalism); typification processes and legal frameworks; dynamics of political-institutional legitimacy (in particular the figure of the “State”); idea of “rule of law” and related foundation models including the problem of sanctions; concept of “judicial system”; relationship between law, linguistic form and interpretation; and concept of “institution”.

In the second core theme, a critical discussion of the previous conceptual framework will be proposed, focusing both on further theoretical models (imperative theory of law, positivism, realism) and on some current traditional paradigms with consequent reflections from a foundational (rules-regulation binomial) and interpretative-jurisprudential perspective (role of the Courts). Special focus will be placed on the concept of customary law and its progressive reconfiguration.

***READING LIST***

*For attending students:*

1. Material explained in class and made available online on the Blackboard platform.

2. A. Andronico-T. Greco-F. Macioce (edited by), *Dimensioni del diritto*, Giappichelli, Turin, 2019. **Students are expected to study the following chapters of this volume: 1 (Justice), 2 (Power), 4 (Society), 5 (Freedom), 6 (Equality), 9 (Fact), 11 (Language), 12 (Rhetoric) and 18 (Humanities)**

3. **Students are expected to study the following chapters of this volume:**

**P. Di Lucia** *Il mistero della consuetudine. Rileggendo Bobbio filosofo della normatività*

**T. Gazzolo** *La consuetudine origine del diritto?*

**G. Bombelli** *Consuetudine. Su alcuni profili cognitivi*

**A. Sammassimo** *Aspetti peculiari della consuetudine nel diritto canonico*

**L. Cornacchia** *Consuetudine e Law in Action in diritto penale*

*For non-attending students:*

1. A. Andronico-T. Greco-F. Macioce (edited by), *Dimensioni del diritto*, Giappichelli, Turin, 2019. **Study the entire volume**.

2. G. Bombelli-P. Heritier (edited by), *I volti molteplici della consuetudine*, Mimesis, Milan-Udine, 2022. **Students are expected to study the following chapters of this volume:**

**P. Di Lucia** *Il mistero della consuetudine. Rileggendo Bobbio filosofo della normatività*

**T. Gazzolo** *La consuetudine origine del diritto?*

**G. Bombelli** *Consuetudine. Su alcuni profili cognitivi*

**A. Sammassimo** *Aspetti peculiari della consuetudine nel diritto canonico*

**L. Cornacchia** *Consuetudine e* Law in Action *in diritto penale*

**Pollastro** *La consuetudine: un’araba fenice*

**Rizzello** *Consuetudine e* path dependence *in economia*

**Siniscalchi** *La normatività del normale*

Note: *Students of other years of the course will study the programme of the corresponding year of attendance (*for programmes prior to the 2021-2022 a.y., contact the Student Guidbook Office*). Students from other Faculties are invited to contact the professor to define the programme.*

***TEACHING METHOD***

The course includes classroom lessons aimed at encouraging discussion and offering in-depth materials also made available on the Blackboard platform.

The course will be supplemented by seminars the structure of which will be communicated in class.

***ASSESSMENT METHOD AND CRITERIA***

The students’ preparation will be assessed at the end of the course through an oral exam focussed on the topics specified in the programme. The assessment will be based on a scale out of thirty, with the possible attribution of “honours”, based on the contents of the candidate's answers as well as their critical-argumentative ability and terminological accuracy.

Students with an understanding of the overall picture of the issues addressed in the course and of the related logical-thematic connections, their complete mastery of the philosophical-juridical method and lexicon, as well as their ability to re-elaborate the issues addressed with a critical approach, will obtain an “excellent” assessment.

Students with a gap-free knowledge of the structural points of the course, supported by a methodological approach and by a substantial although incomplete and partially inaccurate logical-argumentative and linguistic ability, will obtain a “fair” assessment.

Students with minimum knowledge of indispensable elements of the course, with gaps relating to delimited parts of the programme and in terms of critical and linguistic-argumentative ability, will achieve a “sufficient” assessment.

Students who show a highly inadequate preparation concerning the fundamental contents of the course including the related critical-methodological issues as well as in the use of philosophical-legal language, will obtain an insufficient assessment.

***NOTES AND PREREQUISITES***

Since the course is introductory there are no specific prerequisites for attending it. However, students are advised to acquire a minimal knowledge of the main philosophical orientations using topic-related manuals.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=ENG or on the Faculty notice board.