



# UNIVERSITÀ DEGLI STUDI DI PALERMO

DEPARTMENT	Giurisprudenza		
ACADEMIC YEAR	2023/2024		
MASTER'S DEGREE (MSC)	LAW		
SUBJECT	LEGAL PHILOSOPHY		
TYPE OF EDUCATIONAL ACTIVITY	A		
AMBIT	20002-Filosofico-giuridico		
CODE	15550		
SCIENTIFIC SECTOR(S)	IUS/20		
HEAD PROFESSOR(S)	BRIGAGLIA MARCO	Professore Ordinario	Univ. di PALERMO
	TRUJILLO PEREZ	Professore Ordinario	Univ. di PALERMO
	ISABEL ASCENSION		
OTHER PROFESSOR(S)			
CREDITS	9		
INDIVIDUAL STUDY (Hrs)	153		
COURSE ACTIVITY (Hrs)	72		
PROPAEDEUTICAL SUBJECTS			
MUTUALIZATION			
YEAR	1		
TERM (SEMESTER)	2° semester		
ATTENDANCE	Not mandatory		
EVALUATION	Out of 30		
TEACHER OFFICE HOURS	<p><b>BRIGAGLIA MARCO</b>  Friday 11:00 13:00 Il ricevimento avverrà, dietro prenotazione, presso Piazza Bologni 8, piano 2, stanza 11. Su richiesta, si potrà concordare anche un ricevimento su Teams e, in caso di disponibilità del docente, in orari diversi da quelli su indicati.</p> <p><b>TRUJILLO PEREZ ISABEL ASCENSION</b>  Monday 12:00 14:00 Piazza Bologni 8, quarto piano, stanza 5. Si prega di prenotare il ricevimento tramite il servizio online o di scrivere una mail a <a href="mailto:isabel.trujillo@unipa.it">isabel.trujillo@unipa.it</a> almeno due giorni prima.</p> <p>Wednesday 12:00 14:00 Piazza Bologni 8, quarto piano, stanza 5. Si prega di prenotare il ricevimento tramite il servizio online o di scrivere una mail a <a href="mailto:isabel.trujillo@unipa.it">isabel.trujillo@unipa.it</a> almeno due giorni prima.</p>		

**DOCENTE:** Prof. MARCO BRIGAGLIA- *Lettere O-Z*

<b>PREREQUISITES</b>	Basic legal notions regarding the structure of legal powers in contemporary states, the constitutional review, the national and international legal sources, the concept of right.
<b>LEARNING OUTCOMES</b>	Knowledge and understanding: knowledge and understanding of the main problems in the field of legal theory and philosophy. Applying knowledge and understanding: ability to apply their knowledge and understanding to both theoretical and practical legal issues. Making judgments: ability to make autonomous judgments about traditional problems in the field of legal theory and philosophy. Communication: ability to communicate in a clear and exhaustive way, to formulate autonomous judgments on traditional problems in the field of legal theory and philosophy, and to argue in their defence. Lifelong learning skills: development of ratiocinative and argumentative skills, also in dialectical contexts.
<b>ASSESSMENT METHODS</b>	Final exam. Exam type: oral exam, minimum 2 questions. Evaluation: Grades on a scale between 18 and 30 cum laude.  Evaluation Grid: - Excellent: 30-30 cum laude. Excellent knowledge and understanding, excellent communication and argumentative skills, proper use of technical language. - Very good: 26-29. Good knowledge and understanding, good communication and argumentative skills, proper use of technical language. - Good: 24-25. Basic knowledge and understanding, average communication skills, limited argumentative skills. - Average: 21-23. Limited basic knowledge and understanding, sufficient communication skills, poor argumentative skills. - Fair: 18-20. Minimal basic knowledge and understanding, poor communication skills, poor argumentative skills. - Poor. Non-sufficient knowledge and understanding.  Midterm Exam. A non-compulsory midterm exam will take place after the course's first six weeks. Exam type: written exam, multiple choice questions (15 questions; 45 min). Evaluation: Grades on a scale between 18 and 30 cum laude/ etc. Evaluation grid: 2 points for each correct answer.
<b>EDUCATIONAL OBJECTIVES</b>	The course aims at introducing the fundamental topics and concepts of legal theory and philosophy, with special attention on the debate about the concept of law, the relationship between law and morals, and the protection of fundamental rights in contemporary constitutional democracies.
<b>TEACHING METHODS</b>	Lectures
<b>SUGGESTED BIBLIOGRAPHY</b>	I testi sono i seguenti (cumulativi, non alternativi): -B. Celano, <i>Lezioni di filosofia del diritto. Costituzionalismo, stato di diritto, codificazione, diritto naturale, positivismo giuridico</i> . Seconda edizione ampliata. Giappichelli, 2021 - H. Kelsen, <i>Essenza e valore della democrazia</i> (1929). Ci si può limitare a studiare i parr. 1. La libertà, 2. Il popolo, 3. Il parlamento, 6. Il principio della maggioranza, 8. La scelta dei capi, 10. Democrazia e concezioni della vita). Di questo testo esistono diverse edizioni italiane, e possono essere scelte indifferentemente. Nella biblioteca del Dipartimento è ad esempio disponibile l'edizione de Il Mulino.  (Per superare l'esame e' necessario raggiungere una preparazione almeno sufficiente su entrambi i testi)  For foreign students: H. L. A. Hart, <i>The Concept of Law</i> (Second Edition), With a Postscript edited by P. A. Bulloch and J. Raz, Clarendon Press, Oxford 1994

## SYLLABUS

Hrs	Frontal teaching
3	Introduction to the Course
6	The concept of law
6	Normative phenomena
6	Basic normative concepts: rules, reasons, authority
3	Law as a normative phenomenon
3	Natural law and positive law
6	Law and Nature: What Cognitive Science Can Bring to the Understanding of the Nature of Law
3	Psychology and jurisprudence

## SYLLABUS

Hrs	Frontal teaching
6	Theories of law: imperativism, normativism, realism
6	Hart and Dworkin
6	Law and authority. Raz and Schauer
6	Authoritative structures
3	Law and power
6	Contemporary constitutional democracy
3	Conclusions
2	introduction to philosophy of law
2	what is the law
2	what is the law
2	relations between law and morals
2	relations between law and morals
2	natural law theory
2	natural law theory after the II world war
2	legal positivism
2	natural law theory vs. legal positivism
2	neoconstitutionalism
2	rule of law
2	constitutional state
2	constitutionalization legal systems
2	legal sources
2	legal norm
2	legal right
2	legal system
2	legal interpretation
2	interpretative arguments
2	jurist and legislator
2	the role of the jurist in modern state
2	the role of the jurist in the constitutional state
2	democracy, an essentially contested concept
2	procedural democracy
2	deliberative democracy
2	The problem of power
2	The nature of power
2	political power
2	legitimate power
2	The question of power in Sciascia's Todo modo
2	Nomo-dynamic paradox
2	legal clinic
2	the method of legal clinic
6	Natural law doctrine: The pluralistic version in the Oresteia

**DOCENTE:** Prof. MARCO BRIGAGLIA- *Lettere F-N*

<b>PREREQUISITES</b>	Basic legal notions regarding the structure of legal powers in contemporary states, the constitutional review, the national and international legal sources, the concept of right.
<b>LEARNING OUTCOMES</b>	<p>Knowledge and understanding: knowledge and understanding of the main problems in the field of legal theory and philosophy.</p> <p>Applying knowledge and understanding: ability to apply their knowledge and understanding to both theoretical and practical legal issues.</p> <p>Making judgments: ability to make autonomous judgments about traditional problems in the field of legal theory and philosophy.</p> <p>Communication: ability to communicate in a clear and exhaustive way, to formulate autonomous judgments on traditional problems in the field of legal theory and philosophy, and to argue in their defence.</p> <p>Lifelong learning skills: development of ratiocinative and argumentative skills, also in dialectical contexts.</p>
<b>ASSESSMENT METHODS</b>	<p>Final exam.</p> <p>Exam type: oral exam; minimum number of questions: 2</p> <p>Evaluation: Grades on a scale between 18 and 30 cum laude.</p> <p>Evaluation Grid:</p> <ul style="list-style-type: none"> <li>- Excellent: 30-30 cum laude. Excellent knowledge and understanding, excellent communication and argumentative skills, proper use of technical language.</li> <li>- Very good: 26-29. Good knowledge and understanding, good communication and argumentative skills, proper use of technical language.</li> <li>- Good: 24-25. Basic knowledge and understanding, average communication skills, limited argumentative skills.</li> <li>- Average: 21-23. Limited basic knowledge and understanding, sufficient communication skills, poor argumentative skills.</li> <li>- Fair: 18-20. Minimal basic knowledge and understanding, poor communication skills, poor argumentative skills.</li> <li>- Poor. Non-sufficient knowledge and understanding</li> </ul> <p>Midterm Exam.</p> <p>A non-compulsory midterm exam will take place after the course's first six weeks</p> <p>Exam type: written exam (two open questions).</p> <p>Evaluation: Grades on a scale between 18 and 30 cum laude</p> <p>Evaluation grid: See above, Final exam.</p>
<b>EDUCATIONAL OBJECTIVES</b>	The course aims at introducing the fundamental topics and concepts of legal theory and philosophy, with special attention on the debate about the concept of law, the relationship between law and morals, and the protection of fundamental rights in contemporary constitutional democracies.
<b>TEACHING METHODS</b>	class
<b>SUGGESTED BIBLIOGRAPHY</b>	<p>Bruno Celano, <i>Lezioni di filosofia del diritto 2. Costituzionalismo, stato di diritto, codificazione, diritto naturale, positivismo giuridico</i>, Giappichelli, Torino, in corso di pubblicazione.</p> <p>Norberto Bobbio, <i>Il problema del potere. Introduzione al corso di scienza politica</i>, Giappichelli, Torino, 2020.</p> <p>For foreign students:</p> <p>H. L. A. Hart, <i>The Concept of Law (Second Edition)</i>, With a Postscript edited by P. A. Bulloch and J. Raz, Clarendon Press, Oxford 1994</p>

## SYLLABUS

Hrs	Frontal teaching
3	Introduction to the Course
6	The concept of law
6	Normative phenomena
6	Basic normative concepts: rules, reasons, authority
3	Law as a normative phenomenon
3	Natural law and positive law
6	Law and Nature: What Cognitive Science Can Bring to the Understanding of the Nature of Law
3	Psychology and jurisprudence
6	Theories of law: imperativism, normativism, realism
6	Hart and Dworkin
6	Law and authority. Raz and Schauer
6	Authoritative structures
3	Law and power
6	Contemporary constitutional democracy
3	Conclusions

## SYLLABUS

Hrs	Frontal teaching
2	introduction to philosophy of law
2	what is the law
2	what is the law
2	relations between law and morals
2	relations between law and morals
2	natural law theory
2	natural law theory after the II world war
2	legal positivism
2	natural law theory vs. legal positivism
2	neoconstitutionalism
2	rule of law
2	constitutional state
2	constitutionalization legal systems
2	legal sources
2	legal norm
2	legal right
2	legal system
2	legal interpretation
2	interpretative arguments
2	jurist and legislator
2	the role of the jurist in modern state
2	the role of the jurist in the constitutional state
2	democracy, an essentially contested concept
2	procedural democracy
2	deliberative democracy
2	The problem of power
2	The nature of power
2	political power
2	legitimate power
2	The question of power in Sciascia's Todo modo
2	Nomo-dynamic paradox
2	legal clinic
2	the method of legal clinic
6	Natural law doctrine: The pluralistic version in the Orestea

<b>PREREQUISITES</b>	Some legal basic notions related to: the structure of power in contemporary states, constitutional State and judicial review, national and international legal sources, subjective rights.
<b>LEARNING OUTCOMES</b>	<p>Knowledge and understanding: knowledge and understanding of the main problems in the field of legal theory and philosophy.</p> <p>Applying knowledge and understanding: ability to apply their knowledge and understanding to both theoretical and practical legal issues.</p> <p>Making judgments: ability to make autonomous judgments about traditional problems in the field of legal theory and philosophy.</p> <p>Communication: ability to communicate in a clear and exhaustive way, to formulate autonomous judgments on traditional problems in the field of legal theory and philosophy, and to argue in their defence.</p> <p>Lifelong learning skills: development of ratiocinative and argumentative skills, also in dialogic contexts.</p>
<b>ASSESSMENT METHODS</b>	<p>During all the weeks preceding the mid-term exam, short multiple-choice tests will be carried out to be filled in anonymously for self-assessment and to familiarize yourself with the type of intermediate test.</p> <p>Midterm Exam.</p> <p>A non-compulsory midterm exam will take place after the course's first six weeks. It will consist of a multiple answer test.</p> <p>Evaluation grid: See above, Final exam.</p> <p>Final exam.</p> <p>Exam type: for those who do not take part in the midterm exam, the final exam will consist of a written exam (two questions in one hour, before the oral examination, that can be substituted by the midterm exam) and an oral discussion. It aims at verifying the comprehension of the central topics and argumentative skills.</p> <p>Evaluation: Grades on a scale between 18 and 30 cum laude.</p> <p>Evaluation Grid:</p> <ul style="list-style-type: none"> <li>- Excellent: 30-30 cum laude. Excellent knowledge and understanding, excellent communication and argumentative skills, proper use of technical language.</li> <li>- Very good: 26-29. Good knowledge and understanding, good communication and argumentative skills, proper use of technical language.</li> <li>- Good: 24-25. Basic knowledge and understanding, average communication skills, limited argumentative skills.</li> <li>- Average: 21-23. Limited basic knowledge and understanding, sufficient communication skills, poor argumentative skills.</li> <li>- Fair: 18-20. Minimal basic knowledge and understanding, poor communication skills, poor argumentative skills.</li> <li>- Poor. Non-sufficient knowledge and understanding.</li> </ul> <p>For the purposes of the exam, attendance at lessons and participation in the classroom will be valued.</p>
<b>EDUCATIONAL OBJECTIVES</b>	The course aims at introducing the fundamental topics and concepts needed for the comprehension of the nature of law, with special attention on the debate about the concept of law, the relationship between law and morals, and the protection of fundamental rights in contemporary constitutional democracies.
<b>TEACHING METHODS</b>	There will be lectures, seminars, mid-term exam, and self-evaluating tests.
<b>SUGGESTED BIBLIOGRAPHY</b>	<p>Gli studenti frequentanti studieranno gli appunti delle lezioni e i materiali consegnati durante le lezioni. I non frequentanti studieranno</p> <p>F. Viola, G. Zaccaria, B. Pastore, <i>Le ragioni del diritto</i>, Il Mulino, 2017 (nuova edizione: ISBN 978-8815272225).</p> <p>For foreign students, F. Schauer, <i>The Force of Law</i>, Harvard University Press, Cambridge 2016 (ISBN 9780674736191).</p>

## SYLLABUS

Hrs	Frontal teaching
2	Goal and features of the philosophical legal approach. Legal Philosophy's tasks.
4	The nature of Law. Methods for definition of law
8	Law as a normative discourse. The guidance question. Normativity and language. Variety of norms. Legal systems
8	Law and force. Coercion and legitimation of force. The contribution of coercion theories of law. Why sanctions? Law without sanctions.
8	Istituzioni and law. The institutional architecture of law. Law as a sociale institution. The forms of legal coordination. Law as membership.
4	Legal and political forms of authorities. Authority as authorization. Law and power
10	Rule of law. Meaning, content, extension
6	Justice aptness of law. What is justice? Justice and rights.

## SYLLABUS

Hrs	Frontal teaching
6	The debate between Natural Law Theories and Legal Positivism and its contribution to the definition of law
6	State law as central case of law. The evolution of State law.
6	The evolution of law beyond the State. <i>Ius gentium</i> . <i>Communitas orbis</i> . Westphalia paradigm. The model of United Nations
4	The problem of the legal character of international law. International rule of law