

[*Philosophy of Law; Political Philosophy*]

The Shadow of Carl Schmitt: On Questions of Legality and Legitimacy

Course Summary: This course revolves around one of the most controversial — albeit unavoidable — political thinkers of the twentieth century: Carl Schmitt. To the beginner, the name of Carl Schmitt suggests, after a few readings, a worrisome and outrageous thought, with shock-phrases such as “*the sovereign is he who decides on the exception*” and “*the concept of the state presupposes the concept of the political*”. However, a more diffuse concept is systematically found at the root of Carl Schmitt's theoretical wanderings: Legitimacy.

Using the enormous legacy of debates Carl Schmitt has left in his wake, from Hans Kelsen to Giorgio Agamben, students will get a unique opportunity to explore this concept and its extremely tense relationship to that of legality. From the factual limits of the Rule of Law to the most burning issues of International Law, students will develop a greater capacity to appreciate the pitfalls and blindspots of constitutive power, especially considering the current challenge of populism around the world.

The method

The interactive and DBL nature of the sessions will rely to a great extent on the “Socratic Exercises” methodology. Using the medium of philosophical texts, dilemmas and questions, it consists in exercising one's mind on an unusual target: oneself and one's arguments as one delivers them in public. Rooted in questioning and alterity, the aim is to move away from one's “center” and observe dispassionately one's ideas and arguments being analyzed by fellow participants. The “other” then becomes a mirror who helps one refine these ideas, letting them gain in clarity and strength.

In the process, philosophical and logical skills are improved by learning to:

- Identify and express important questions
- Present coherent propositions and objections
- Problematize and pinpoint the crux in a given question
- Uncover and analyze concepts
- Distinguish between concepts
- Determine presuppositions
- Reformulate propositions, etc.

Tentative Flow

Each session revolves around one main Socratic exercise, preceded by an overview from the moderator and followed by a round table on both the exercise and the concepts we went through. The resources for the exercises — including the philosophical skills being worked on — are to a good extent tentative: participants may and are encouraged to suggest alternatives.

Session 01: Orientation + Is legitimacy a matter of validity or credibility?

Session 02: Is legitimacy the same as authority?

Session 03: Is a state of exception a matter of legality or legitimacy?

Session 04: What comes first, legitimacy or sovereignty?

Session 05: Can we legitimize legality?

Session 06: Who safeguards international law?

Session 07: Case study: legitimacy and the Outer Space Treaty.

Session 07: Case study: legitimacy and the Nomos of Cyberspace.

Language & Bibliography

This course will be held in English, with flexibility for people who prefer to express themselves in Arabic (by agreement of all participants). The reading material will mainly be excerpts from works by Carl Schmitt: *Legality and Legitimacy*, *Political Theology*, *The Concept of the Political*, *The Guardian of the Constitution*, *The Nomos of the Earth*.

Other works of Modern and Contemporary Philosophy will be included, s.a. Hans Blumenberg (*The legitimacy of the modern age*), Hans Kelsen (*What is Justice? ; Peace through Law*), Max Weber (*Politics as a Vocation; Law in Economy and Society; The Three Types of Legitimate Rule*), Jürgen Habermas (*Legitimation Crisis*), Giorgio Agamben (*State of Exception*) ...

All texts will be provided.