

Faculty of Law



DROI2396 Law and nature

[30h] 4.5 credits

This two-yearly course is taught in 2007-2008, 2009-2010,...

This course is taught in the 2nd semester

Language: French

Level: Second cycle

Aims

The aim of the course is to stimulate a critical attitude of law students towards certain contemporary legislation, specific judicial practices and certain forms of legal-political discourse, in light of philosophy and the social sciences.

Main themes

The course consists of three parts:

I. Law and the Ecological Question Cf. F. Ost, *La nature hors la loi*, Paris, La Découverte, 1995 (2nd edition, 2003)

The main concern of western man towards nature is one of an attitude of appropriation and exploitation that has become absolute, leading to the ecological crisis that we are now experiencing. This is the model of "nature-object", which emerges from an anthropocentric paradigm. This conflicts with a (minority) reaction that treats nature as a subject, notably a legal subject: this is the 'bio-centric' paradigm of "deep ecology". In reaction to such attitudes that lead only to deadlock, a third way will be proposed, that of the "nature-project", whose legal tradition is articulated around the notions of precaution, responsibility (notably towards future generations) and common heritage. This is also accompanied by new political practices, notably those of citizen panels and consensus conferences.

II. Nature: model of legal norms?

Seeking inspiration in the laws of nature for 'laws of the city' has been the constant preoccupation of classical nature law. In spite of its weaknesses, this method of argumentation proves to be surprisingly resistant to criticism, and has survived natural law. Still today it figures prominently in legal-political argumentation, which acts to justify a given mode of family organisation, a certain type of penal sanction, or moreover a given model of public institution. The discourses of grand utopias (comprising the scientific utopias of the 20th century) have in this respect proved to be an inexhaustible reservoir of this form of thinking. One will endeavour to identify the diverse forms that cloak this argumentation, and submit them to a precise critique.

III. Law and nature# of man

Starting from the idea that the nature of man lies in its humanity, and defining this (which is also its dignity) as the shared membership of a plurality of unique human beings, we will discuss the soundness of certain practices of genetic manipulation that either deny this shared membership (producing sub-humans and 'supermen') or reject singularity (cloning).

Content and teaching methods

A critical analysis of the legal and social relations between man and nature.

Other information (prerequisite, evaluation (assessment methods), course materials recommended readings, ...)

Classical teaching method, interspersed with discussions centring on a selection of readings. In the exam, students will have the opportunity to present a personal question of interest.