

Philosophy of Law and the State

Semester: 2nd

Code: 722031047

Academic unit: FCSH

Department: Philosophy

Unit level: Master

Credits: 10 ECTS

Teacher in charge: *Dr. Giovanni Damele*

Weekly hours: 3

Teaching language: English

Subject matter

Leviathan and Behemoth. State building and state failure in modern and contemporary political philosophy

The Hobbesian state of nature (*bellum omnium contra omnes*) can be described as a state of permanent civil war. It is precisely to avoid this situation that the Leviathan arises. Implicit in many theories of state – including the liberal view that the State is needed to manage the inevitable social conflict and the minarchist interpretation of the State as a “night watchman” – there is the idea that the State (even when regarded as a better evil) is needed to avoid an uncontrolled civil conflict. At the same time, the experience of the English civil war (the Behemoth) had made it clear to Hobbes that this process is not irreversible. As Carl Schmitt put it, Hobbes’ *deus mortalis* is “a machine whose ‘mortality’ is based on the fact that one day it may be shattered by civil war or rebellion”. From this viewpoint, civil war precedes the Leviathan both in the state of nature and in the case of periods of disorder between the failure of the old state and the building of a new one. Also from this viewpoint, contemporary theory of the State needs to take into

consideration Civil War as a fundamental category: the omnipresent dark side of the State. Since civil war represents a constant threat for the existence of the State, its comprehension is pivotal for the philosophy of state. This is particularly true in contemporary times, in which civil war has become the standard type of conflict. It can be useful, thus, to come back to the classics and reflect one more time on the complex relationship between Leviathan and Behemoth.

Main topics:

- Behemoth and the Leviathan: “civil war” and “state of nature” in Hobbes
- Locke: the appeal to the heaven
- A lawless war? Civil War and “ius in bello”: Grotius and De Vattel
- Civil war in revolutionary times: Burke
- Politics as the continuation of civil war by other means: Clausewitz reinterpreted
- Europe and the thirty years (civil) war: Lenin and Carl Schmitt

Bibliography

Carl Schmitt. *Theory of the Partisan*. New York: Telos Press, 2007.

Edmund Burke. *Further Reflections on the Revolution in France*. Indianapolis: Liberty Fund, 1992.

John Locke. *Second Treatise of Government*. Hoboken, NJ: Wiley-Blackwell, 2012.

Lenin. *State and Revolution*. Chicago: Haymarket Books, 2014.

Thomas Hobbes. *Behemoth; or, The Long Parliament*. Oxford: Clarendon Press, 2010.

Secondary Bibliography

Carl von Clausewitz. *Clausewitz on Small War* (ed. by C. Daase and J.W. Davis). Oxford: Oxford University Press, 2015.

Carl Schmitt. *The Leviathan in the State Theory of Thomas Hobbes*, Greenwood Press, 1996

David Armitage. *Civil Wars. A History in Ideas*. New York: Alfred A. Knopf, 2017

Enzo Traverso. *Fire and Blood. The European Civil War 1914-1945*. London: Verso Books, 2016.

Teaching method

Two main activities are developed in the course. During the first part of the course, there is an explanation of theoretical content that will be followed by the presentation of questions by the students and a wide debate on the previously presented issues. In the second part of the class, there will be room for the reading, interpretation and analysis of the texts on which the presented contents were based. A secondary bibliography will facilitate the discussion of the course's main theme from a multidisciplinary point of view.

In class teaching:

Two classes – focused on contemporary issues and topics related to state building and state failure – will be given by two visiting professors: Prof. Andrea Ruggeri (University of Oxford – Brasenose College) [See short CV attached: ANEXO A] and Prof. Stasis Kalyvas (University of Oxford – All Souls College) [See short CV attached: ANEXO B]. [Date to be announced]

Evaluation method

The evaluation is chiefly focused on the elaboration of a paper that shall be previously proposed to and supervised by the lecturer (80%). Attendance and participation in class are also taken into account (20%).