

Course Syllabus

Fundamental Concepts in Law, 7.5 HEC

Grundläggande juridiska och rättsvetenskapliga begrepp, 7,5 hp

Postgraduate Studies
Faculty of Law, Stockholm University
Course code: JU04GJR

Pre-requirements

Students taking this course should have been enrolled as candidates for Doctor of Laws Degree at Stockholm University.

Learning outcomes

After completing the course, students should be able to:

- Analyze and evaluate relevance of the concepts investigated during the course, and identify they manifest themselves in their research
- Assess the legal solutions vs. societal consequences of the choice of certain “taken-for-granted” basic ideas
- Demonstrate deeper insight into, and to assess and evaluate the interaction between law and other branches of knowledge (e.g. sociology or political science),
- Describe, analyze and assess significant legal differences in the different theories behind such fundamental concepts styles of argument,
- Identify, analyze and evaluate complex query and problems with regard to moral, political and legal dilemmas,
- Account for text analysis,
- In writing to produce and formulate independent, systematic and critical legal analysis based on theoretical frameworks to be applied to legal realities and legal scholarship.

Course content

The objective of the course is to create a better understanding of concepts central for the legal discourse and the legal scholarship in particular, as well as providing the LL.D. students with a theoretical and practical background as to fundamental issues for the modern legal systems.

The course comprises four parts. After a brief introduction, Part One is an exploration of the idea of *democracy* and its relevance for both the legal system and the legal scholars. Different contemporary theories as to this concepts will be explored (e.g. procedural democracy, substantive democracy, social democracy), in particular in consideration of their impact for the work and the study of law.

Part Two will deal with the various theories around the *separation of powers* and which function the latter play in the shaping and functioning of the legal system. Relevance will be given in

particular to the discussion about judicial activism, the distinction between separation of functions and separation of powers and the different role of the public agencies in both systems.

Part Three will investigate the idea of the *rule of law* and its relevance to the work of both lawyers and legal scholars. For example, attention will be devoted to convergences and differences between the idea of rule of law and the concept of *Rechtsstaat*, the idea of formal rule of law, the discussion as to the “thin” and the “thick” rule of law, and how such different perception of the rule of law can influence the work of both political actors (*e.g.* national assemblies), public agencies and legal actors (*e.g.* judicial bodies). Attention will also be devoted to the idea of rule of law as endorsed by the European Union’s institutional bodies.

Finally, Part Four will focus upon the idea of *rights* and its relevance for the legal discourse. In particular, the seminars will be structured around two main lines. The first will pay attention to clarifying and discuss the distinction and overlapping between human rights, basic rights and fundamental rights. The second will investigate how (if at all) the classical systematization of political rights, economic rights and social rights affects the legal discourse and the legal scholarship.

Mandatories

The course consists of seminars conducted in English. Students are expected to participate actively in the seminar’s discussions. Each student must submit a PM (max 1250 words) each week, where he or she examines the relevance of the concepts discussed for his or her dissertation. The students will then report the PM orally with a subsequent discussion.

Active participation in 80% of the seminars is mandatory. Active participation means that the PhD students will prepare tasks for the seminars and participate in analyzes and discussions about the tasks during the seminars.

Forms of examination

The course ends with the submission by the doctoral candidate of PM (max. 5000 words) on a question posed by the examiner. The question is given in English and Swedish and can be answered either in English or in Swedish.

Grading (either passed or non-passed) is based on the following:

20% for class preparation and participation,

40% for the 4 writing assignments as well as their oral presentation,

40% for the final PM examination.