UR,

Philosophy, Logic and Philosophy of Law

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Methodology of learning:
   1. Reading the Syllabus
   2. Reading the texts relating to the important concepts of Philosophy
   3. Group work on the topic in appendices ot this syllabus
   4. Questions of revision and general revision in class (all students and professor)

PLAN

Chap 1: General introduction to Philosopy: what is philosophy?
Chap 2: Systems of philosophy and philosophy of knowledge
         and application to professional law
Chap 3 : Logic, as tool "organon"
         and application to professional law
Chap 4 : Legal philosophy/Philosophy of Law

APPENDICE: Panorama of philosophy, by philosophers

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Chap 1
GENERAL INTRODUCTION: WHAT IS PHILOSOPHY?

PHILOSOPHY: DEFINITION
Word Philosophy
- The word Philosophy come from Pythagoras (Greek).
- It means ''Philos'' Love
- And   ''Sophia'' Wisdom''.

Love
-Love as feeling of absence,
-Love as quest tending to knowledge, sciences, truth.

Wisdom
the problem of philosophy is **to justify**
-what that I know it is true?
-What I do that it is good?

Philos as Sophia, as way of life/mode de vie
- Self control   - Transcendence
- Activity - Commitment or engagement
- Serenity – Detachment

METHOD OF PHILOSOPHY
The philosophical method is the reflection (reflexion)
-Fundamental: request of principle, cause or first reason.
-Critical : by doubt, principle of uncertainty

PHILOSOPHY AND OTHER LEVELS OF KNOWLEDGE

	Object		Method	Orientation
	Material Object	Formalobject		
Philosophy	The whole real	Principle	Reflexion (Reflection)	Finality, Sense Homo sapiens
Sciences	A region of the being	The quantity Measurements	Observation Experimentation Instrument	Means
Technology	Production		System of tools	Production Homo Faber

OBJECT AND DIVISION OF PHILOSOPHY

**Philosophy as knowledge at third degree (level)
of comprehension or understanding**

Man/Woman attains knowledge in or by traversing or going through three levels	
Common sense	it is a knowledge which derives from the being (human being) as he/she exists Positively: is the primary knowledge based on the experiment of the life of the man But, is anthropomorphic and anthropocentric
Scientific knowledge	It takes form with: Order and method: observation, experimentation, instrumentalization, It keeps the quantity, measurement.
Philosophical knowledge	Corresponds in ascending order, to the third level of abstraction

Knowledge as abstraction

1° level: Physical abstraction	where one considers the qualities, the figures, the movements of things,
2°level Mathematical abstraction	where one considers the numbers, the quantity of things comes
3°level Metaphysical abstraction	where one considers every thing or any thing in aspect of being.

Philosophy and other levels of knowledge

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Object and division of Philosophy

Domains/ disciplines	Important questions

Ontology (ontos-logos)	Every being is:
	    -Act and power (puissance)
	    -Essence and existence
	    -Substance and accident

Cosmos: Cosmology (Science of cosmos or universe	Cosmos, Time, spaces
	1) Do time and space exist?
	    -Aristotle: time and space are proprities of the things;
	    -Kant:time and space are laws a priori of the reason
	2) Is the universe finished or infinite?
	3) Did the universe does it have a beginning? or exists it of any eternity?
	4) Which is the origin of the universe?
	5) Will the universe have an end?

God: Theodicy	1) Does God exist? 2) Too Solutions: Theism (proof by mysteries of universe) and atheism (proof by absurdities in this universe, by Evil, by human liberty); 3) Or does God east create by the men?
Human: Rational psychology	1) Which is the man nature? 2) Which is the origin of the man: Evolution or creation ? 3) Which is the destiny of the man? 4) How to explain the relation between the heart and the body?
Knowledge Epistemology	1) Is the truth possible? 2) Which are the criteria of the truth? 3) Which is the source of our ideas? Reason (intuition) or the experiment? 4) Which is the source of the intuition? God? reason itself? 5) Which are the conditions good intuitions: curiosity(not naive curiosity)? Silence ("non "silence vide , bavardage)?

Science: Epistemology	1) Which is the finality of science: The contemplation and pleasure of the heart (âme)? 2) Which is the criterion of truth of a scientific theory? 3) When the experiment goes against a theory, is it necessary for as much giving up the theory?
Action: ethics	1) Universal Ethics dependent to the Good oneself and consenquentionism? 2) Source of the moral obligation: God, reason, the State, the society/culture? 3) Happiness of the man? 4) Relation General Ethics and applied ethics 5) Question of ethics and culture?
Aesthetics: (science or theory of beauty	1) Beautiful one is Universal or relative? 2) Do there exist objective criteria of beautiful? 3) Which is the finality beautiful?

Chap 2:
Important systems of philosophy
And application to Legal philosophy

ORIGIN OF PHILOSOPHY
1) The First Man (Human Being): This question is open; between the evolutionism and the creationism
   Certitude:
2) "Man (Human being) is the sole (only) metaphysist animal" which/ who not only knows to utilize (use) tools, but has also a language, and poses (asks) questions of the causality.

Thus the first traditions

1. **Pre-Colombian traditions** of Central America (from Circa 800 B.C to 1400 A.D) they keep the first pyramidal constructions…, astronomical observations…Original metallurgical works.
2. **India: Buddha** (563 BC -483 BC) , The Hindu tradition. It is recorded in the Vedas. They are writings (records) for the use by priest; they describe the mystery of the world, the universe.
   > The Buddist finds his/ her expression in the yoga which is spiritual and corporeal practice with attitudes of internalization (interiorization) such the fast(fasting)ascetism (ascetic lifestyle) in peace and the silence for a sort of self-extinction in the whole-one The end is the Nirvana' the '' arousal" or" awakening" which is the end of the eternal cycle of reincarnation.
3. **China:** Confucianism an Taoism. Confucianism goes back to the teaching(s) of Confucius (KONGZI, 551-479 BC) It is a political and moral philosophy whose founding virtues are: Humanity, uprightness (honesty, decency, wisdom and loyalty, Taoism or the Tao- king (5th 3rd centuries BC, affirms or asserts the primacy and permanence of the suffering.

The important thing for man /woman is to follow the Tao/ the Way of the Deliverance,by the **philosophy of interiority**

 ''THE GREEK MIRACLE '':

1) Rationality founded (based) on the explicit notions of meaning (significance), of order and of logical necessity.

2) The first philosophers ask themselves questions on the multiplicity of the things and on the perpetual changes of nature.
3) For them, science would only be possible on condition of constructing it outside of change.

4) They therefore believed that there existed an elementary substance which would the origin of all the metaphors of changes.
5) Their philosophical project turned around the first principle and of its metaphors within nature.
6) They are called physiologic (physiologists) or philosophers of nature because they attach themselves above all to nature and to the natural phenomena.

Socrates, Dialectical method or art to dialogue and question

Socrates, contemporary sophists
Context
Socrates is contemporary sophists
✓ Sophists are itinerant professors: their advantage is to organize the public debates on public questions
✓ They have answers on all the questions, except about the question of physical nature
✓ For the physical questions, they declare skepticism scientific.

On human and social questions, they declare: "man is norm of any thing: it is the moral relativism

Heritage of the sophists
Positively: political and social speech/ discussion/debate is opened to the public, was before reserved to the initiates alone, is in full exposition.
Negatively
1. **Sophism:** abilities of the speech, having for ends, not to show and expose the truth, but to persuade.
2. **Skepticism:** total impossibility of truth. The men live opinions of suitability.
3. **Relativism:** there is no universal principle making it possible to establish the truth. Nothing absolute, all is relative. Truth and well is the useful one, the forgery and badly is it what is not useful for me (egoism), for the other (altruism), for several.

Socrates, art to dialogue and question

Method: The socratic methodis dialectic (art of the conversation, dialogue).
    ✓ Symbolical, dialectic is Irony and maieutic.
    ✓ The end of dialectic method is to help the adversary to find the truth hidden in itself
    ✓ By a series of short questions, requiring short answers.
    ✓ It is art to drive back the adversary with contradictions (**argument by absurd; by hypothesis**)
        Application:
        -To know to formulate questions, to answer and discuss:

-What is a good question?
-«savoir se protéger contre les questions sans issues, ou d'issues fatales et qui entrainent des réponses nébuleuses ou font la honte à celui qui la pose »

Future of the dialectical method

-Scholastics: "Art to discuss", Art of the argumentation/reasoning by discussion
             Stages: Technically it takes place in three stages or in three times:
1st Stage (Thesis): "Concedo", To affirm or pose
I consider that this is true as for example: Rwanda is a democratic country

2nd stage (Anti thesis), "Nego", To deny
I bring at the same time I anticipate the arguments the opponent(adversary) may oppose against my thesis, as for example No, Rwanda is not democratic because (to formulate the arguments1°,2°,3°,…)

3rd Stage (Synthesis), To discuss.
I refute these arguments 1°,2°,3°,… what amounts to affirming or asserting in unwavering or steadfast manner the initial thesis ''Rwanda is a democratic country.

-Hegel, dialectical method
Like **Heraclites,** Hegel considers that that all is change, to become, movement, passage; it is the principle of the perpetual flow of the things; Hegel, considers the principle of contradiction; The world is at the same time in contradiction and unit; The things and the thought progresses by dialectical movement.
        1st Stage: To pose, thesis,
        2st Stage, To deny, antithesis,
        3st Stage, To preserve, synthesis

-Plato: Idealism and dialectical ascending
Plato distinguishes two worlds:
        -the world of ideas (sciences):
            ✓ the truth in oneself,
            ✓ the beautiful one in oneself,
            ✓ the Good in oneself,
            ✓ the Justice in oneself.
        -the sensitive world
            World of opinions or illusion, mixture of truth and the false
            Knowledge is *reminiscence* and*love* or *dialectical ascending one*.

It symbolizes this rise in "myth of cave"
This rise is expression of the love, an aspiration to the Beauty, Truth and Good.

Technically

Method is *Hypothesis:*
(supposition, hypothesis, postulation, theory)

The assumption is an allowed proposal without proof by the interlocutors,
and the demonstration takes two forms:
1) *Proof by absurdity,*
2) *Analyze and the synthesis: divided by dichotomy.*

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1) To explain the dialectical method at each following philosopher: socrat, Plato, Hegel?
2) Application to the explanation of a situation (a phenomenon)
3) Comprehension of terms: dialectical, division by dichotomies, assumption (hypothesis)

Aristotle: Demonstrative syllogism

Plato, Dialelectic :Dialectical one of Plato uses the method of division per dichotomy based on contradiction. It support on the opinion and the discussions of the opinions.
Aristotle, Syllogism

> Aristote is opposed against its Plato Master: It refuses the dialectical reasoning.
> Tools "organon" of demonstration, it is the conclusive syllogism, where the universal true one, one concludes with particular true (cfr. Logic).
> If all the planets turn the sun, each planet tourney around the sun.

Discussion: Which is the value (pertinence) of the deduction?
- The truth is contained in the premises.
- The spirit is in dialogue with itself
- Non with reality and the opinion of the other.

René Descartes, Rationalism

Origin of cartesianism
Criterion of the truth, according **Medieval Period**
Knowledge by faith, revelation, illumination, bible, theology

Cartesianism, Speech on the method"
1) The common sense "bon sens" is the thing in the world best divided
2) First warning : the significant one, it is not to have the reason,
3) But to make good use of it (to think with order and method)
Sources of errors
1) *precipitation* and *prevention* or *prejudices*
> Thus requirement of the radical and methodical or provisional doubt

But, it there an indubitable truth: "cogito ergo sum",*I doubt, I thus think, I am*

Method of knowledge

Intuition: *Immediate (direct/instant) knowledge of an sprit healthy and attentive, that no doubt remains on what I know*

Object of intuition: Ideas of Ego (thinking subject), World and God; These ideas are simple, clear and distinct;

criteria of the clear idea: *Are inneism, the indubitability and infallibility.*

Method

2) However, the simple ideas are in small number.
3) Requirement of a method which brings back the complex ideas to the simple ideas:
4) Analysis and whole enumeration, while following the order of dependences of the truths

Cartesianism method is: analysis, deduction, intuition, synthesis.

Blaise Pascal

Reason, intuition and the heart "Coeur"

1) Like Descartes, Pascal is convinced that in mathematics and geometry one leaves the indefinable terms "indemonstrable" proposals. Are **objects of intuition.**
2) Two serious difficulties of philosophy: dogmatism and kepticism
3) The ideal of the knowledge would be to proof all proposals,
4) But in philosophy (science), one is in perpetual confrontation between dogmatism and skepticism.

- *Philosophical dogmatism (also mathematical): pose* the obviousness S intuitive and has priori. "indémontrables".
- *Philosophical skepticism:* claims reasons vis-a-vis the intuitions.
   « Le Coeur a des raisons que la raison ne connait pas »/"the heart has reasons which the reason does not know"

Francis Bacon

1) The principle of any knowledge is the observation of nature (empirism).
2) The first effort of the spirit must thus be that to get rid of prejudged.
3) because they interpose between him is the things. These prejudices are called *"idols"*, and are of 4 sorts.
   a. idols of tribe:Illusions of species,*"Les hommes ont tendance à juger les choses, non selon ce qu'elles sont, mais selon le rapport que l'homme a avec ces choses »*
   b. idols of cave:Character of each individual
   c. idols of forum:Illusions of public place or language running which allures us)
   d. idols of theatre: Exaggerated respect of Masters and Schools of thinking.

Emmanuel Kant,rationalism

The question of knowledge: rationalism reconciled with empiricism

A priori with A posteriori
Reason and experiment
Dogmatism and skepticism

Two certainty : The fact of sciences; -The fact of morals
Question
-With which condition science is it possible?
-With which condition morals is it possible?
solution

Two judgments
   A. -Analytical: subject is contained in the predicate: ex: the ground is round (a priori); But this judgment does not add anything to the extension knowledge
   B. -Synthetic: predicate is not contained in the subject, ex. a mountain is volcanic (a posteriori): This judgment makes the extension of knowledge

Synthesis: Synthetic judgment a priori (a priori-a posteriori)
Knowledge is possible by two forms (time) and spaces
By 12 categories): **These form and categories is not laws / propertiesof the things, but of the laws of the thought, by which we think the things (cfrLalande: raison constituée)**

Difficulties and openings of the Kantianism:

Skepticism: Realities apart from time and of space are not recognizable, Example of the discrepancies: **knowledge of the world is a whole of the discrepancies "antinomies".** the world is at the same time
   - finished and infinite;
   - began a day and always existed;
   - made up of tiny elements and the extent can be always subdivided;
   - there exists at the same time of free causalities and nature is very subjected to the laws necessary.

Questions
   1) Which are the sources of error at Descartes
   2) To comment on:
        a. "the common sense is the thing best divided
        b. "Cogito ergo sum »,
        c. "the Heart reason has reasons which the reason did not know".
   3) To explain does the origin of the method of analysis and analyze gradual at

Descartes? *Application to a situation*

4) Terms: Intuition (Descartes), idols (Bacon), radical and methodical doubt (Descartes), categories of theoretical reason (Kant), antinomies (Kant), a priori, a posteriori. *(Application to a situation)*

Scientific spirit (experimental), Analyticalphilosophy« Cercle de Vienne » (Gaston Bachelard, Wittgenstein Ludwig Joseph, Russell Bertrand, Wittgenstein Ludwig, Bachelard, Popper)

1) Definition And problem
   a. Analytical philosophy "analyzes language" and language of sciences.
   b. The goal of the philosophical analysis is to clarify the language of science. Removing of very contained metaphysical, formulating terms which empirically contained verifiable theses and concepts of science.
   c. The project of Wittgenstein as that of the members of "Cercle de Vienne" has just built the unit of sciences while bringing back them all to two elements, one empirical, other logic or formal. And perfect science is that whose formalism will be perfectly adequate with the totality of the possible experiments.

2) **Identification:** Cercle de Vienne the community of researchers which published in 1929 a Proclamation entitled « La conception scientifique du monde » based on the following principles:
   a. **Epistemological rupture or epistemological obstacle:** The new scientific spirit progress in knowledge always takes place in the rupture compared to the common sense, its convictions, its images and its certainty.

   b. **Principle of verifiability**
   imposes on any theory or the general and abstract statement, the concrete observation.

   c. **Principle of the refutability, (skepticism) :** Any scientist who seeks science must:
   -To preserve a whole independence of mind and the philosophical doubt.
   -To believe with science, i.e. with the determinism (relationship absolute and necessary between the things),
   -But, our knowledge is approximate (principle of uncertainty)
   -The experimental principle is thus doubt, philosophical doubt. The philosophical doubt open the spirit to the freedom and initiative

   d. **Principle of the refutability/not of the checking.**
   Any theory requires evidence, justifications and discussions;
   The evidence in favor of a theory is always negative.

Questionnaire

> 1) To explain the relevance of analytical philosophy?
> 2) To explain the following principles:
>   -Epistemological rupture or epistemological obstacle ; - Principle of verifiability;
>   Principle of the refutability
>
> **in oneself**

Phenomenology, Edmund Husserl

The world (things) is not such as we perceive it. Thus the reflexion is necessary. The subject which... reflect on itself; the object which ...in oneself.

1) Problem
   a. The philosophical problem: knowledge, like Synthesis between: the phenomenon and what it is meant
   b. Between meant (significance) and the exteriorization of that sense

2) **Solution and system :** Reduction (mettre entre parenthèses)
   a. **Philosophical reduction:** from A*ssertoricaljugement. Jugementassertirique (*possibility of the doubt *) to Apodictic assertion/ Jugementapodictique*(absolute inconceivability of error and nonexistence of object)
   b. **Phenomenologic reduction:** *From empirical subject to* transcendantal subject.
   c. **Eidetic Reduction:** From particular and contingent facts of the empirical existence to the *eidos*

Questionnaire :
> 1) To explain "is phenomenology   hermeneutic "? Application to a situation?
> 2) To explain the terms: assertorial proposition (jugementassertorique), indisputable proposition (jugementapodictique), philosophical reduction, (application to a situation?

Synthesis of philosophy of knowledge

what is? It is the Ontology : *ontos- Logos*		Which method of knowledge? It is the Epistemology : *episteme-Logos*
Rationalism affirms the " innéisme" of the ideas; the mode of knowledge is a priori.	*Pragmatism is* synthesis between Rationalism and Empiricism, between Theory and Practice. The significant one, it is success. The truth is an idea which succeeds, which gives satisfactory results. **Phenomenology/ link betwen essence (eidos) and phenomena**	*Empiricism* affirms that the intelligence is "table rase". The mode of knowledge it is the observation. **Positivism,** focus on the th facts

Chap3
LOGIC AND CRITICAL THINKING

GENERAL INTRODUCTION

-Definition of Logic:
- <u>Science</u> of ideal laws/principles/rules of think
- <u>Art</u> of applying then correct, promptly, easily and without error in research and demonstration of truth

-Object of Logic : Relation: Concept-judgment-Reasoning

Logic of concept, First operation of the mind :
Simple apprehension/ Theory of the Concept/Term
1. **Definition:**
- The <u>Simple apprehension</u> is the act by which the intelligence understands the essence of reality/Object
- The <u>concept</u> is a mental representation of the object
- The <u>Term</u>is verbal expression
2. **Proprieties of concept**
- Abstraction: the concept is separated with object
- Extension: subjectsincluded
- Comprehension: Qualities of the object which designed

Rule of Comprehension and extension:
Comprehension － Extension

The extension of a concept grows in inverse reason of the understanding and conversely. That is the more a concept has a big extension, the less is its understanding and conversely.

5. Logical definition and logical division

A. **Definition: To Define,** is to confine most exactly possible the understanding of a concept.

Classification of definition
1 ° Nominal definition: It appeals - or in a more used word: example, the sodium chloride is the common salt.
2° Etymological definition: example, " the philossophia is the love of the wisdom".

3° Descriptive definition: For lack of the essential characters genre and specific difference, we enumerate the properties/characters the most marked with a reality, to allow to distinguish it sharply. These properties are not the essence of the reality, only ensue from it.

4° Essential definition: The perfect definition is said "essential definition".

The essence to be defined is a species.

The technique to define it consists in joining to the species its

next genre and its specific difference:

- the genre is the common character in a set of elements species,

- the specific difference is the essential character which distinguishes a species of quite other.

Rules of definition

The first rule concern the comprehension: *The definition must be clearer than the defined. As a consequence:*

1. which does not contain the term to be defined or its   equivalent,
2. which is brief,
3. which is not negative.

Second rule concern the extension of the term to be defined, *so: the definition has to suit in all the defined and in the defined only one.* As a consequence,

 - which is convertible with the defined and to the defined only one.

- ✓ **No very large   "*ni plus »***
- ✓ **No very small*, « nimoins »***

B. Division: To Divide, it is to distribute one quite there its homogeneous

parts so that the whole is convertible in its parts.

So that it is rigorous, a division has to be:

1, Complete/exact or adequate: (nor less): enumerate all the elements of which the whole consists, which all the parties equal the whole;

2, Inflexible "irreducible": enumerate only really different elements between them, in a way that nobody is included in the other one, in a way that no part exceeds the whole;

3, Coherent: that is based/established on the same principle and as the foundation of the division is the same towards all the parts**.**

Conclusion: Clarification of words

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3. Logic of jugement/ Immediate inference

1. Definition of the judgment/sentence:

The judgment/ (sentence) is a mental act by which the intelligence asserts or denies the suitability *"adéquation"* or the not suitability *"non-adéquation"* between a subject and a predicate.

The verbal or written expression of a judgment/sentence, it is the **proposition.** Any judgment/sentence is structured by three elements: **the subject, the copula and the attribute.**

2. Structure

Subject	Copula	Attribute
Socrates	Is	Philosopher
	Not	Rwandan

3. Proprieties: In binary logic, any judgment/sentence *is true or false.*
So, the truth and false "the hypocrisy" are both properties of the judgment/sentence.

Logical Care: **Operation on the proposition: immediate inferences**

According to the combination of the quantity and the quality

✓ Universal Affirmative	Every **X** is **Y**	**A**
✓ Universal Negative	No **X** is **Y**	**E**
✓ Affirmative part,	Some **X** is **Y**	**I**
✓ Negative part,	Some **X** is not **Y**	**O**

Square Logic
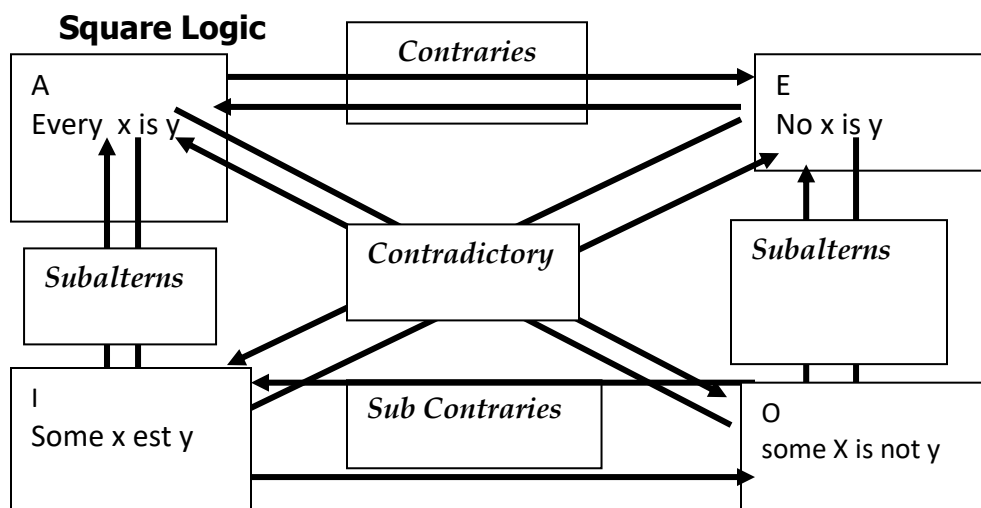
Table of possible inferences

From 1	To 0	And ?	From F	to V	And ?
A	E	I = V, O = F	A	O	E(V) and I= ?
E	A	I = F, O = V	E	I	A ?, 0 =?
I	E	A and O= ? 1.0	I	E	A = F, O = V
O	A	E and I = ?	O	A	E = F, I = V

? =   Indeterminate (V or F)

Every Rwandan is animals (F), No Rwandan is animal (F)

4. Argumentation

1. Definition

By definition, the reasoning is a discursive intellectual operation by which the intelligence establishes the truth by a chain/sequence of propositions. The objective face of the reasoning is the demonstration or the argumentation.

2. Structure of Argumentation/Demonstration

Antecedents/Premises	Propositions taken as point of departure of a reasoning
Consequence/inference	Relationship by virtue of which, we conclude in the consequent
Consequent/conclusion	Proposition taken as place of destination of a reasoning

The first principles of reason

Is principle what is first in the order of knowledge and being. They are universal: Everybody, in any circumstance, utilizes (uses) them, they are necessary: they cannot not to be, because it does not appear possible to do without them in order to think.

The principles of logic. They are involved as first condition of the exercise of the reflected thought; they direct (lead) the activity of the constituted reason (reasoning)

Principle of identity	'' Every(Any) being is such that it is or A= A,A symbolizing any object of thought
Principle of non-contradiction	A same being can once and at the be and not be to the same point of view and under the same relations or a concept can not be defined once and at a point of view and under the same relation as <u>A</u> and non-A
The principle of the excluded third	There is non third possibility between A and non-A, Between a proposition and its negation. There is no third possibility" or again of two contradictory propositions, one is true, the other is false.

.

> The first rational principle is that of universal intelligibility or law of sufficient reason from which stem of the principles of determinism and of necessity, the principles of substance and the principles of finality.

The principle of suffient reason	" A thing can not exist in a certain manner if there is not a suffient reason so that it exists in this manner rather than in another
The principle of causality	Any or every phenomenon has a cause, in the same or similar cause always produce same or similar effects
From this principle of causality stem the following principles	
The principle of determinism	Principles do not happen or take place at random, they are determined by their conditions of existence when they are known.
	Remark: The principle of determinism has nothing contradictory with quantum physics which believes in the quasi freedom of elementary particles or indeterminism
The principle of necessity	"The relationship between A considered as cause and B considered as effect is constant and the relationship cannot be other than it is".
The principle of finality	Every being has a finality
The principle of substance	" Any or every quality belongs to a substance, any or every thing that is, exists either as a substance, or as a quality of this substance"
The principle of " negligence"	At all levels of his/her experimentation, the scientist asks himself the constant question: May I neglect?
The principle of concentration	If one wants to study any occurrence or fact, one must study it where it is the most concentred.
The principle of simplification	" One seeks behind the complexity of facts, the simple laws which will give its explanation"
The principle of identification and universalization	One identifies the beings which, in the concrete reality, are only similar (same)
The principle of economy	One must not multiply the hypotheses beyond the strict necessary in order to give explanation of the observed phenomena. Nietzsche thinks that one should give preference to the hypothesis which explains the smallest expenditure of postulates and means, for it is the one which contains the least of arbitrary and which forbids itself to play freely with the possibilities, whereas the superfluous hypothesis leads always to such adventures.

The principle of correspondence	Any new theory will have to contain the old in form of approximation

7. Sorts of reasoning

Induction: The induction is a reasoning which ends from the singular in the universal. The truth of universal relaying on the respect for two rules:

1°Rule of the complete enumeration,

2 ° Rule of the interpretation. It is necessary and it is enough to enumerate all the cases.

Function of induction: *How is a law generalized?*Induction is the change from the particular to the universal. It is the operation by which we get through from the knowledge of facts to that of the laws which govern them, on condition of following certain rules:

1. That the enumeration be sufficient	To enumerate the diverse cases where a phenomenon takes place
2. That the interpretation be true	To distinguish accidental circumstance from essential, constant, invariable circumstances in which this phenomenon occurs (takes place)
3, That the elimination be complete	To eliminate all concomitant and antecedent phenomena without which the effect occurs or takes place, for they must not be found among the essential causes. There remains therefore a single antecedent of the effect.
That the induction be general	It is to universalise the cause, as the law requires that same (similar) cause, in the similar (same) circumstances, produces always the same (similar) effects.

Remark: Induction is founded (based) on the principle of causality affirming that" Any phenomenon has cause, that in same (similar) conditions, that same produce always the same (similar effects" Afterwards (later), to ascribe (attribute) a cause to an effect, there must be the following conditions:

1) That the cause and its effect be contiguous in space and in time.
2) That the cause be anterior to its effect,
3) That the cause and the effect be united constantly,

4) That the same cause produce always the same (similar) effect and that the same(similar) effect originate always from the same (similar) cause,
5) That several causes which produce same (similar) effect have a common quality,
6) That the difference between of two similar causes proceeds from the circumstance by which they differ,
7) That a cause which exists some times without producing its effect not be considered as the sole(only) cause,
8) That the diminution or increase of the cause is accompanied with the diminution and the increase of the effect.

Deduction: immediate inference

Function of deduction: to pass from the general to the particular

Categorical syllogism

Definition: The deduction is the passage of the universal to the private individual. Aristotle calls it "syllogism".

The syllogism is a deductive reasoning trained/formed by three propositions expressing declarations of a new legal status and three terms: the big term, the small term and the middle term.

Structure of deduction

1. The first two propositions are called the premises.
2. The first one or contains the big term.
3. The second or the minor contains the small term.

The third is the conclusion. It consists of the small term and the big term.

The **Large term** (Lt)	is the predicate of the conclusion. It is taken of major.
The **small term** (St)	is the subject of the conclusion. It is taken by the minor.
The **middle term** (Mt)	is the term which returns twice in both premises and which never returns in the conclusion.

Propositions

Premises	Major/Majeure	Every philosopher is wise (Lt)
	Minor/Mineure	Now Socrates (St) is a philosopher (Mt)
Conclusion	**Conclusion**	Thus, Socrates (St) is wise (Lt)

Rules of syllogism

The first four rules concern the terms

R1° Three terms and three only,   with same sense

Ex.

Every captain is aquatic.
Now my brother is a captain.
Thus my brother is aquatic. *(The conclusion is false because there are terms)*

R2° Never the middle term   in the conclusion

Ex.

Every patient asks for care.
Now every depressed man is a patient.
Thus the one who asks for care is a sick man. *(The conclusion is false because Mt comes in the conclusion)*

R3° That the middle term is taken at least one   once in its extension universal Ex.

Some men are holy.
Now the criminals are men.
Thus the criminals are holy. *(The conclusion is false because Mt is twice particular).*

R4° Never a Large term in extension in the conclusion than in the premises

Ex.

Rwandan are black.
Now any Rwandan is a man.
Thus every man is black. *(The conclusion is false because man in conclusion is very large. Cfr man in minor)*

Four others concern the propositions.

R5° Two affirmative premises give inevitably an affirmative conclusion

Ex.

| Any wild animal is dangerous. |
| Now certain dogs are wild animals. |
| Thus certain dogs are not dangerous. *(The conclusion is false because it should be also affirmative)* |

R6° The conclusion follows the weakest premise (the negative or particular)

Ex.

| No disloyal man is reliable. |
| Now some lawyers are unfair. |
| Thus all the reliable are lawyers. (The conclusion is false because the minor is particular, and the conclusion is universal). |

Other ex:

| No man is completed. |
| Now some men are presidents. |
| Thus some presidents are perfected. (The conclusion is false because adult is negative, the conclusion is affirmative). |

R7°Of two negative premises we can conclude nothing

Ex.

| No logician tolerates the error. |
| Now some African is not logician |
| So: ……… **no possible conclusion.** |

R 8° Of two particular premises we can conclude nothing.

Ex.

| -Some men are Rwandan. |
| -Now some Rwandan are bilingual. |
| -So… no possible conclusion. |

Figures/Forma of syllogism

The figure of the syllogism results from the place of the middle term in the premises.

Mt = Gt	Gt = MT	Mt = Gt
Pt = Mt	Pt ≠ Mt	Mt = Pt
Pt = Gt	Pt≠ Gt	Some Pt= Gt

F 1°"SUB-PRAE" (Mt is subject in major and predicate in the minor)

Mt = Gt	Every man (Mt) is wise (Gt)
Pt = Mt	Now Pierre (Pt) is a man (Mt)
Pt = Gt	Thus Pierre (Pt) is wise (Gt)

Rule - that the minor is affirmative, - that major is universal.

-In the first case, if the minor was negative, the conclusion should be negative and major affirmative. The big term would be universal in the conclusion and the private individual in major, what would be an error.

-In the second case, if major was particular, the middle term would twice be particular, and no conclusion would be possible.

F 2° "PRAE-PRAE" (Mt is predicate in major and predicate in the minor)

Gt = MT	Every circle (Gt) is round (Mt)
Pt ≠ Mt	Now Any triangle (Pt) is not round (Mt)
Pt≠ Gt	Thus No triangle (Pt) is circle (Gt)

Rule - that one of the premises is negative, - that major is universal.

-In the first case, if both premises were affirmative, Mt would be twice taken particular, what would be an error.

-In the second case, if adult was particular, Gt would have more extension in the conclusion than in major, what would be an error.

F3 "SUB-SUB" (Mt is subject in adult and subject in the minor)

Mt = Gt	The simplicity (Mt) is pleasant (Gt)
Mt = Pt	Now the simplicity (Mt) is a virtue (Pt)
Some Pt= Gt	Thus some virtue (Pt) is pleasant (Gt)

Rule - that the minor is affirmative, - that the conclusion is particular.

-In the first case, if the minor was negative, major should be affirmative and the conclusion would be negative. Gt would have a bigger extension in the conclusion than in major, what would be an error.

-In the second case, the same error, if the conclusion was universal, because Pt would have more extension in the conclusion than in the minor.

12. CONDITIONAL SYLLOGISM

Implication: ( ):

If it is sunny, then it is light.
Now it is sunny.
Thus it is light.

If P → Q	If P → Q
Now P	Now no Q
So, Q	So, no P

Notice: other forms are not valid.

- If we put the premise, we also put the consequent.
- If we put the consequent, we know nothing of the antecedent. For our example, it is light, we ignore if it is sunny.

Equivalence: "if and only if", so then →

We are a man "if and only if" we are reasonable.
Now we are a man.
Thus we are reasonable.

P ↔ Q	P ↔ Q	P ↔ Q	P ↔ Q
Now P	Now Q	Now no P	Now no Q
So, Q	So, P	So, no Q	So, no P

Exclusive Disjunction: either the one or the other one, never both at once (at the same time) "V"

Or it is daylight, or it's dark.
Now it makes in the daytime.
Thus it is not dark.

Either P or Q	**Either P or Q**
Now P	Now no Q
Thus no Q	Thus P

Disjunction including "V": the one or the other one and possibly both at once (at the same time).

Ex. He speaks French either English or both.

Either : P or Q	Either : P or Q	Either : P or Q	Either : P or Q
Now P	Now Q	Now no P	Now no Q
So, no Q	So, no P	So, Q	So, P

Conjunction ("and":&)

He is student and registered.
Now he is registered.
Thus he is student.

Denied Conjunction

It is denied that the cat and the mouse is at the same time in the same room.
Now the cat is present.
Thus the mouse is not present.

Notice: - other forms are not valid. - for the denied conjunction, if a sequence is put, the other one is denied, but if the one is denied, we do not know if the other one is asserted or denied. Example: if the cat is in the house, I deduce that the mouse is not there. But if the cat is not in the house, the mouse can be there or not.

Conjonction		DeniedConjunction	
Eiher P & Q	Eiher P & Q	Eiher no (P& Q)	Eiher no (P&Q)
Now P	Now Q	Now P	Now Q
So, Q	So, P	So, no Q	So, no P

Remarques

-DISJUNCTION

True continues disjunction	disjunction continue is true, it is necessary and it is enough that at least a proposal is true
False continuous disjunction	disjunction continues is false, it is necessary that all the proposals are false

Continue Disjunction. That a ensemble of the proposal S, P1 or P2 or P3 or ... Pm

i=m (propositions ad infinitum)
$\sum$ Pi (continue Disj. of P_1 or P_2 or P_3 or ... P_m)

While referring to the truth table of the conjunction and the reasoning by recurrence, one finds that:

i.   disjunction does not continue is true, it is necessary and it is enough that at least a proposal is true;
ii.   conjunction continues is false, it is necessary that all the proposals are false.

From where: any continuous disjunction is commutative and associative.

-Conjunction: Continue Conjunction. posed a whole of the noted proposition P 1 and P2 and P3 et... Pm,

---

i =m

II P$_i$ continue conjunction of P$_1$ and t P$_2$ and P$_3$...Pm

i= 1 (true proposition)

---

i=m (proposition ad infinitum), i= 1 (true proposal), Pi (variable)

While referring to the truth table of the conjunction and the reasoning by recurrence, one finds that:

i.   Continue conjunction is true, it is necessary and it is enough that all the proposition are true.
ii.   Continue conjunction is false, it is necessary and it is enough that at least a propositions *P 1* is false.

From where:

i.   Any continuous conjunction is **commutative,** i.e. its logical value remains the same one when the order of his factors is changed (variable)

Any continuous conjunction is **associative,** i.e. its value remains the same one when one gathers factors (variable) consecutive.

The Dilemma

It is an argumentation in which we force the opponent to an alternative among which each of the parts, you have the same conclusion. We force for example to the one who committed a crime against humanity: or you remain on the scene of the crime or you leave them. If you stay, you will be translated in front of the national jurisdictions. If you the quits you will be pursued by principals of international justice. In both cases, you will appear before the Justice.

Rule: To be valid, the dilemma owes:

1 ° to contain in adult one disjunction completes, that is to envisage only two alternatives, without any third possibility.

2 ° to Deduct from every case a justifiable consequence.

Either P or Q
If P, so R
If Q, so R
So, R

Table of recapitulation

P Q	Impli-cation $\rightarrow$	Equiva-Lence $\leftrightarrow$	Conj. &	Denied Conj. - (x&y)	Inclusive Disj. V	Exclusive Disjunction V
1 1	1	1	1	0	1	0
1 0	0	0	0	1	1	1
0 1	1	0	0	1	1	1
0 0	1	1	0	1	0	0

<u>**Remarques**</u>

-DISJUNCTION

True continues disjunction	disjunction continue is true, it is necessary and it is enough that at least a proposal is true
False continuous disjunction	disjunction continues is false, it is necessary that all the proposals are false

Continue Disjunction. That a ensemble of the proposal S, P1 or P2 or P3 or ... Pm

i=m (propositions ad infinitum)
∑ Pi (continue Disj. of P₁ or P₂ or P₃ or ... Pₘ)

While referring to the truth table of the conjunction and the reasoning by recurrence, one finds that:

iii. disjunction does not continue is true, it is necessary and it is enough that at least a proposal is true;

iv.   conjunction continues is false, it is necessary that all the proposals are false.
From where: any continuous disjunction is commutative and associative.

-Conjunction
Continue Conjunction. posed a whole of the noted proposition P 1 and P2 and P3 et...
Pm,

> i =m
>
> II P$_i$ **continue conjunction of P$_1$ and t P$_2$ and P$_3$...Pm**
>
> i= 1 (true proposition)

i=m (proposition ad infinitum), i= 1 (true proposal), Pi (variable)

While referring to the truth table of the conjunction and the reasoning by recurrence, one finds that:

iii.   Continue conjunction is true, it is necessary and it is enough that all the proposition are true.
iv.   Continue conjunction is false, it is necessary and it is enough that at least a propositions P 1 is false.

From where:

ii.   Any continuous conjunction is **commutative,**   i.e. its logical value remains the same one when the order of his factors is changed (variable)
Any continuous conjunction is   **associative,**   i.e. its value remains the same one when one gathers factors (variable) consecutive.

5. Sophism and refutation of the sophism

1. Definition

The rhetoric is the art to persuade or the faculty/power to see all the manners possible to persuade people on imports only subject. The speaker persuades by his character; he is the man or the woman who creates an emotion at the listener/auditor.

By definition, a sophism is a reasoning which aims at gluing most people possible for his/her opinions, rather than at making discover the truth. A reasoning can be false of two manners: or that the premises are false and runner, the reasoning sins by default the material or formal. Or that the conclusion does not rerelease premises and runner, the reasoning sins by default the shape.

The modern call indifferently "paralogisme" or sophism any argument based/established on ambiguities. This genre of reasoning can confuse and convince a lot of people, except the attentive listener/auditor. Whether it is voluntarily, due to the lack of attention, or by habit, people use or are victims of the sophism.

The speeches the most exposed/explained to the sophism are the ones in touch with the politics and the related fields, that is those who make her directly or those who like understanding them. If, for example, the speaker is forced to recruit more people to his party or to his group or if it is forced to compromise his antagonist, the intention to demonstrate the truth is secondary with regard to that to persuade her public. But attention! Certain sophism jump obviously as forgery, and those turn in the ridiculous the one who uses them.

2. Sorts of sophisms

Demand/Request of the privilege.

The demand/request of privilege is pressed on the gratitude/recognition made for the author for an experience (experiment or a skill/competence which he has or not. In any logic, the fact that it has such an experience/experiment is not a proof that all its assertions will have to be the true.

Call/Appeal to the authority

The sophism of call/appeal to the authority try to make accept an opinion under the only pretext which another person enjoying a real or supposed prestige shares this opinion. Example: the fact of making accept a political belief only because of the fact that a man celebrates politics thinks in the same way. It is an error to claim that the witness of a certain authority is always right.

Call/Appeal to the majority

The sophism of call/appeal to the majority justifies an opinion only because of the fact that most of the persons think or act in the sense of this opinion. The rule of the not extrapolation indicates eloquently that several opinions are worth another opinion, that an opinion resumed/taken back) by two other persons is not the truth, but one three opinions.

Call/Appeal to the clan

The sophism of the call/appeal to the clan is nearby of it that of the call/appeal to the majority. Of less general speed/look however, he expresses himself by a sample of a population which does not represent the whole and asks that an opinion is adopted because a group of persons adheres to it. Example: make accept

a political belief on a government or a government member by leaning on the same opinions/notices of the politicians of your circle of acquaintances or the same obedience.

Call/Appeal to the tradition

The call/appeal to the valid tradition an opinion only because of the fact that it exists for a long time.

Call/Appeal to the novelty

The sophism of call/appeal to the novelty, against that of the call/appeal to the tradition, justifies what he asserts by using, as main argument, the fact that it is recent, unpublished. This genre of sophism is often used in advertisements. The novelty is never a security assured/insured by the excellence. That of ideas of mode/fashion or new products turn out fatal a little later!

Call/Appeal to the feelings

The sophism of call/appeal to the feelings tries to make accept an opinion by betting on the feelings or the feelings to which the interlocutor is sensitive. To ask for a favour, we do not miss to call upon reasons of family, health, poverty, minority, "ethnism", "regionalism, sex, profession, sentimental patriotism, religion... As this student who, to justify his absence in the programmed examinations, evokes the situations of disease of his relatives/parents... As this beggar who reminds for example to a nun that if she/it makes a good gesture/movement, will be blessed by God.

Attack against the person

The sophism of attack against the person consists in compromising the interlocutor, rather than in arguing. We ask for example for one person to answer the charges relative to his/her attitudes and behavior. He calls that he is pursued for his ethnic group and that the accuser is particularly depraved and considered racist.

Call/ Appeal to the ignorance

The sophism of call/appeal to the ignorance consists in leaning on an absence of proof to make accept what we advance, as this student who, during the presentation of its work of the end of cycle, proved the relevance of its subject by leaning on the fact that nobody has still tried such search/research. Probably that nobody introduced such a search/research because the subject is a not sense!

Ignorance of the question

This sophism occurs when the demonstrated thing is not the one that we ask, when we pretend to prove a thing while we intervene voluntarily or involuntarily irrelevant. It is frequent at the student's, the politicians, the journalists, the

lawyers... To make acquit a murderer, the witnesses for the defence demonstrate that the defendant is a brave soldier and a hero. Certain questions oblige silence and discretion. To escape for example the question of the presence of the military troops in a sovereign country, a politician can stack speeches which resume the main lines of the politics of the peace, the development, the education, by hoping that it is not the journalist who will risk the impropriety to indicate to the head that he intervenes irrelevant!

Sophism of the false analogy

The sophism of the false analogy consists in justifying a conclusion on base of a visible comparison between two or several phenomena which are not however exactly similar. The one who so argues does not give the effort to examine all the parameters of comparison or resemblance.

Hasty Generalization

The sophism of the hasty generalization ends, in a inconvenient way, from the private individual in the universal. In the sophism of the hasty generalization, is connected the sophism of the private individual.

Principal petition

The error consists in taking for experience, as premise of the reasoning, the conclusion to which we want to arrive, to repeat by way of proof, the same idea as we have to prove, to give the illusion to prove an assertion while in reality we content with repeating it. The principal petition maybe said also "vicious circle" which consists in proving the proposition "A" by the proposition "B" and the proposition "B" by "A".

Sophism of the caricature

The sophism of the caricature consists in modifying the premises of the interlocutor to make them easier to attack/affect; it is due to an unfair interpretation/performance of the premises of the opponent. In certain political circumstances, this genre of retort/replica can even wear risks and the sophism of the caricature is nearby of that of the attack against the person.

The sophism of the false dilemma

It consists in forcing the interlocutor to two possibilities, without putting itself in the spirit that between these two options, there is the third.

Others sophisms:
- ✓ Sophism of fatal slope
- ✓ Sophism of gradual march
- ✓ Sophisms of obscure decision

ELEMENTS OF SYMBOLIC LOGIC

Symbols

Proposals: are variables, noted **P, Q, R** … in an unlimited way.				
Operators:				
Negation	Conjunction&	Disjunction	Implication	Equivalence
-		V	=>	<=>
Logical values: Truth : « 1 » False : « 0 ».				
( ), [ ], { } That is to say :-P=>P=>Q & Q=>M =>P => M One can note: {[- P=> (P=>Q)] & [(Q=>M))=>(P=>M)] }				

Method of the matrices

P	- P
1	**0** 1
0	**1** 0

P	Q	P => Q	P& Q	PvQ	P <=> Q
1	1	**1**	**1**	**1**	**1**
1	0	**0**	**0**	**1**	**0**
0	1	**1**	**0**	**1**	**0**
0	0	**1**	**0**	**0**	**1**

Example with one variable: (P => -P)

P	P => - P

Example with two variables: ((P => Q) & - Q) => -P

P Q	((P => Q) & - Q) => - P
1 1	1 1 1 0 0 1 **1** 0 1
1 0	1 0 0 0 1 0 **1** 0 1
0 1	0 1 1 0 0 1 **1** 1 0
0 0	0 1 0 1 1 0 **1** 1 0

Remarque :

- **possible Combinations: N²** (**N**= variable/ad infinitum; **2** = value (truth and false).
-**Classification des résultats possibles:**
Tautology: **1111**
Contradiction: 00000
The contingency: 10

Indirect method or by absurdity

Example (tautology): ((P => Q) & - Q) => - P

((P=>Q) & - Q) =>-P

Exemple (no tautology): ((P => Q) & - P) => - Q

((P=>Q) & - P) =>-Q 0 1 0   1 1 0 0 01

Method of the semantic tables

Exemple (tautology) : (- P => (P => Q)

Column of Truth	Column of the false
	1 (- P => (P => Q)
2/1- P	**3/1 (P => Q)**
	4/2 P
5/3P	**6/3Q**

Exemple (no tautology) : P => (P => Q)

Column of Truth	Column of False
	1. P => (P => Q)
2/1. P	3/2. P = > Q
4/3. P	5/2. Q

Exemple (under columns): P => (Q => (P & Q))

Column of Truth	Column of the False
	1. P = > (Q = > (P & Q))
2/1. P	3/1. Q = > (P & Q)

4/3. Q		5/3. P & Q	
I. V	II. V	I. F	II. F
		6/5. P	6/5. Q

Semantic table of the various operators

La négation

If the negation is true			If the negation is false	
True	False		True	False
1. –P				1. –P
	2/1. P		2/1. P	

conjunction

If the conjunction is true			If the conjunction is false			
True	False		True		False	
1. P&Q					1. P&Q	
2/1. P			I. V	II. V	I. F	II. F
3/1. Q					2/1. P	2'/1. Q

disjunction

If disjunctionistrue					If disjunctionis false	
True		False			True	False
1. P v Q						1. PvQ
I. V	II. V	I. F	II. F			2/1. P
2/1. P	2`/1. Q					3/1. Q

Implication

If the implication is false		If the implication is true			
True	False	False		False	
	1. P=> Q	1. P => Q			
2/1. P	3/1. Q	I. V	II. V	I. F	II. F
			2'/1. Q	2/1. P	

Equivalence

If equivalenceis false					If equivalenceistrue			
Vrai		Faux			Vrai		Faux	
		1. P<=> Q			1. P<=> Q			
I. V	II. V	I. F	I. V		II. V	I. F	II. F	II. F

2/1. P	3′/1. Q	2′/1.Q	2/1. P		2/1. P		2′/1.P	
					3/1. Q		3′/1.Q	

GENERAL REVISION

General philosophy

Specificity of the philosophical method?
Dialectical method : that Thesis: ……………………. No : ………………………………… ……………………………………. …………………….. Discuss: …………………………….. …………………………. **Application to the explanation of a situation (a phenomenon):**
To explain does the origin of the method of analysis and analyze gradual at Descartes? **Application to a situation**
Explain the specificity of conclusive or demonstrative syllogism compared to the Socratic method

To explain the following principles, Withexemples?

- Principles	Understanding	Exemples
- Principle of identity		
- Principle of non-contradiction		
- principle of the excluded third		
- principle of suffient reason		
- principle of causality		
- principle of determinism		
- principle of necessity		
- principle of finality		
- principle of " negligence"		
- principle of concentration		
- principle of simplification		
- principle of identification and universalization		

- principle of economy		
- principle of correspondence		

Which levels of abstraction? : 1) ……. ……………2) ……………………… 3) ………………………………..

The origin of knowledge
  -According to the rationalist ……………………………………………………………
  -According the pragmatist? ……………………………………………………………

Famous expressions of following philosophers:
  - **Descartes:**
   ……………………………………………………………………………………………
   ….,
  - **Jean Paul Sartre :**
   …………………………………………………………………………………
  - **Others philosophers of your choice: …………………..**

Answer following reasoning?

-If it is s a book of philosophy, it is expensive. However, this book is expensive. Can one conclude that it is a book of philosophy? ……………………………………………..

-We go at the Birunga mount tourism if are present the Chief of promotion <u>and</u> the guide <u>and</u> each one of student PPS1. However all are presents, exceptKalisa. Can one logically leave in tourism? ……………………………………………………..

-The professor can teach if he have a book of logic or mathematics or philosophy. However, he have only a book of philosophy. The other books are not available. In this condition, is it correct to teach? ……………………………

That is to say proposals:	**Assertorialjudgement (jugement assertorique) ? indisputable judgement (jugement apodictique)?**
All personisemotional	: ….
Someanimals are herbivores	: ….

To comment :Philosophy initiates to pose just questions and to avoid false question? Comment, referencing to <u>Socrates</u>

1. In what would have consists happiness for the man specifically with what is not man? Comment your option

Which levels of abstraction? : 1) ....2) ....… 3) ....

On Logic

Are the following divisions correct or incorrect? If incorrect, identify the logical error?

Animal consists of sheep, cow, mammal, carnivore, lion , herbivore	
Science are distributed in mathematics, physics, geometry, law, constitutional law	

Are the following definition are incorrect or incorrect? If Incorrect identify the logical error?

Logic is science, non like Biology	
History is an institute of higher education of Social Sciences	
Peace , it is the virtue to commit never of the injustice	
History is science and art	

Propositions

That is to say an proposition, in A, (1): **Oppositions**	LogicalVarious: True (1) false (0)
E:	
I:	
0:	
That is to say an proposition, in E, (0):	LogicalVarious: True (1) false (0)
A:	
O:	

I:	
That is to say an proposition, in I, (O):	LogicalVarious: True (1) false (0)
A:	
E:	
O:	
That is to say an proposition, in 0, (1):	LogicalVarious: True (1) false (0)
A:	
E:	
I:	

That is to say our class PPS 1, year 1, 60 students		
Condition: This week-end, we go in walk to the Lake, if one **and** the other **and** all are present.	**Decision:** Certain student are present, certain others miss. Will those which are present go in walk to the Lake?	Yes or not?
Condition: Evening, let us go dinner if one **or** the other **or** all is present.	**Decision:** At least 50/60 students are present. Do we go dinner?	Yes or not?

Conclude these conditional syllogisms. If it is impossible, write impossible?

If it is Peter soldier, then it will go in Haiti for the mission of peace. However, Peter goes in Haiti. Does **conclude** which he is a soldier?	....
It is **false** that Peter is a soldier and Senator **at the same time**. He is not Senator. Then, do I have to conclude that it is soldier?	....
One believing cannot be at the **same time** Catholic and Moslem. However, I know that the man believing that I seek is not Moslem. Then, do I have to conclude that it is catholic?	....

Let be a proposition, find the premises?

Major? :   ....
Minor? :   ....
Conclusion: John is innocent and will not be sanctioned.

InvalitExemple of following conditional syllogism

Equivalence	
Implication	
Inclusive disjunction	
Exclusive disjunction	
Denied conjunction	
Conjunction	

Exemple of each Sophism

Demand/Request of the privilege.	
Call/Appeal to the authority	
Call/Appeal to the majority	
Call/Appeal to the clan	
Call/Appeal to the tradition	

Call/Appeal to the novelty	
Call/Appeal to the feelings	
Attackagainst the person	
Call/ Appeal to the ignorance	
Ignorance of the question	
Sophism of the false analogy	
Abusive generalization	
Principlepetition	
Sophism of the caricature	
The sophism of the false dilemma	

To group these terms, in 4 groups

- A posteriori - A priori - Analysis - David Hume - Deduction - Descartes - Dialectical method - Edmund Husserl - Empiricism - Experiment - Essence - Idealism	GROUPS Group 1 : Group 2:

- Image - Induction - Innate ideas - Intuition - John Locke - Kant - Observation - Perception - Phenomenology - Phenomenon - Plato - Rationalism - Syllogism - Tabla rasa	Group 3: Group 4:

Open questions

1.	Formulate the specificity of the need (necessitate) of philosophy?	
2.	Explain the danger to entrust society to the sophists, cfr Plato	
3.	Explain the "world of the Ideas", according to Plato	
4.	In what Descartes is "Father of modern philosophy"?	
5.	Can the man think by oneself, according to Descartes? Discuss?	
6.	Is the man free? Which are the obstacles against freedom? Discuss ?	
7.	Discuss on the origin of moral obligation	

Analyze logical of a speech of varied reasoning

That is to say following speech composed of various reasoning: Definition, syllogism, sophism, equivalence, implication, exclusive and inclusive disjunction, conjunction, dilemma.

To indicate the form of reasoning and its logical value

§1 Law is a science if and only if it has a method. It does not have a method. But it is a science.
By definition, it is not mathematics. Philosophy is also science.

Form of reasoning:
....

Encircle: validate/invalid

§2 : If my disciple wants to be intelligent, He studies legal sciences or Philosophy. If he studies philosophy, it chooses the way of wise by lights of reason and the divine grace. If he chooses Legal sciences, he will be wise by the skill of the practice and the legal experiment them. Without hesitation, it is intended for be wise.

Form of reasoning:

....

Encircle: validate/invalid

§3 : Philosophy is the science of wisdom, because it is the oldest science. All the scientists of good reputation say it.

Form of reasoning:
....
Encircle: validate/invalid

Form of reasoning:
....
Encircle: validate/invalid

§4 : I often say to my disciple, that many people become important /big man by the way of wisdom or the force. It is not possible that a person can become important by wisdom and the force at the same time. I know my disciple well: he will not become important by the force. Then it will become it by wisdom.

Form of reasoning:
....
Encircle: validate/invalid

§5 : He attends a good university. If a University is old, then it teaches legal sciences. However the University where it is registered teaches legal sciences. Surely, this University is old and powerful.

Form of reasoning:
....
Encircle: validate/invalid

§6 : The university is powerful if and only if it gained the price. But it did not gain the price yet. That does not change anything of its good reputation: it is always powerful.

Form of reasoning:
....
Encircle: validate/invalid

 §7 : My dear disciple had however refused to be registered in a African University. According to the naive opinion, University African are not efficient. It is a false charge: by proof, Our

country have abundant natural resources, cultural and morals, are democracies and are the future of the world.	

TOPICS for Group work
Reading, presentation and discussion in groups

Common topic:	- What is this philosophy, follow-up of a portraits /photos of philosophers
1. What is this philosophy, follow-up of a portraits /photos of philosophers	
	- Maieutic at Socrate; - Dialectical, at Socrate, Plato, Hegel
2. A student form another Faculty ask which to attend to the courses of philosophy ask you : « what is philosophy and which is it importance in the critical thinking and the decision making?"	- Cartesianism, Descartes, - Intuition, analyzes and synthesis; - Discussion between induction and the deduction
Specific topics	- The morals of virtue and happiness at the old philosophers and/or the morals of the duty and the categorical imperative at Kant; - does the moral obligation come from oneself or another force/ extern authority?
- Empiricism and rationalism	
- Idealism and materialism	
- Pragmatism	
- Phenomenology and social sciences	
- Analyze Marxist of the contemporary society	- The phenomenology of Husserl and his applications in social sciences
- The revolution of Descartes in philosophy	- Nietzsche and nihilism and his applications
- Comparison Morals according to Aristotle and Morals according to Kant	- Jean Paul Sartre, freedom and existentialism
- Virtue, Justice and Equity	- The pragmatism and philosophers of pragmatism
- Dialectical analysis and analyzes logical	- Discussion between rationalism and empiricism

- Causality and determinism - Induction and deduction - Can the man think for/by oneself? What truth - Can the man be free? What is this Freedom - What does consist Happiness for the man?	- Discussion between materialism and the idealism - Discussion between skepticism and dogmatism - The man can it be free; - the man can it think and act by itself

Chapiter 4
Legal philosophy/ Philosophy of Law

Plan

1: CONCEPT OF "*PHILOSOPHY OF LAW*"
1. Origin of concept of Legal philosophy/Philosophy of Law, Philosophy of law and Theory of law
2. Relativity and omnipresence of Law
3. Necessity of Law
4. Law and Religion
5. Various attitudes of the populations with regard to the Law. That is related to the specific culture (typologies)
6. Comprehension of Law
7. Characteristics of Law according to lawyers:
8. Law and Ethics, and operational notions of ethics
9. Law and justice, according Aristotle: "Ethic to Nicomaque"
10.   Law and Politics

2: RATIONALITY OF LAW/ RIGHT
1. Problem: Bases of the coercive character of Law
2. Solution of rationalism/essentialist, Aristotle and St Thomas d'Aquin
3. Solution of the positivism legalist
4. Solution of the "volontarism"
5. Prospects for the humanistic current
6. Solution of Kantian rationalism "the morals of the duty"
7. Solution of the Hegelian idealism, dialectical and rationalism
8. Solution of scientific positivism
9. Solution of English utilitarianism « Anglais »

3: SOURCES OF LAW
1. Natural law
2. The "realistic" Theory of the force
3. Several philosophers since the sophists of the time of Socrates until, Nietzsche while passing by Machiavelli "le Prince" believed that the Law had its source in the force.
4. There is a law of the strongest and a right of most extremely. The most recognized representatives this position are Hobbes and Hegel.
5. Utilitarianism, utility, John Stuart Mill (1806-1873) and Herbert Spencer
6. Humanistic theory: double human nature

Chapter 1. Concept of "Philosophy of Law"

1. **Origin of concept of Philosophy of Law, Philosophy of law and Theory of law**
2. **Relativity and omnipresence of Law**
3. **Necessity of Law**
4. **Law and Religion**
5. **Various attitudes of the populations with regard to the Law. That is related to the specific culture (typologies)**
6. **Comprehension of Law**
7. **Characteristics of Law according to lawyers:**
8. **Law and Ethics, and operational notions of ethics**
9. **Law and justice, according Aristotle: "Ethic to Nicomaque"**
10. **Law and Politics**

1. Origin of concept of Philosophy of Law, Philosophy of law and Theory of law

The "***Philosophy of Law"*** is a term which comes from *Principles of philosophy of Law* (1821) of **Hegel**.

The philosophy of the Law is not a branch of the Law, but of Philosophy.

The Theory of Law can be comparable with **legal positivism**, whose object is to found a true as correspondence between law and facts: "science of the Law" (base of a legal and objective theory of the right);

It is descriptive and non-prescriptive (principle of axiologic neutrality);

It is satisfied to say, explain, expose the Law such as it is; not to criticize the existing Law in the name of ethical values or of subjective political opinions. The scientist does not have to endorse the standards which it studies.

It is not any more question of truth. Because the Law is quite normative. It rests on a fundamental standard:

Whereas theory of the law is descriptive (to say what is: to be), **the philosophical one is critical and shows rather what should be/It is normative and axiologic.** It is the debate between being it and duty-to be it.

By contrast, the philosophy of the Law can be comparable in the"***Jusnaturalisme"*** which affirms that it is possible to know the **bases metaphysics** of the Law (the nature of the man and the things) the moral principles controlling the Law.

Thus it must teach what must be the Law, which must be the Juste.

Categories of theory of law and philosophy of law

Theory of Law/ Science of Law	Philosophy of Law
Descriptive/Facts/ "être"	Prescriptive/Norms "Devoir être"
Axiological neutrality;	Critical, normative and axiologic. "valeurs"
Positivism	*Jus naturalism*
Sciences/ facts	Metaphysics (essence, nature of man and things (choses)

The philosophy of Law is the analysis of concepts and fundamental principles of the right and law. It is a discipline in the intersection between Philosophy, Legal studies and Political sciences.

2. Relativity and omnipresence of Law

The friendship, the love, family relations etc are not necessarily legal bonds.

> For example, when the child requires in front of the Law unquestionable courts on behalf of his parents, or vice versa. It is not desirable all to bring back to a point of law.

But it is necessary to know its rights and their bases to avoid the **human exploitation and social handling (lutter contre l'exploitation et la manupulation sociale).**

> For example, is there the right to express to defend the aspirations of a nation to his political independence?

3. Necessity of Law

- On the other hand, the Law is also everywhere, in all the ***human relations****.*

- The Law can contribute to the construction of better society (ex. *Modern society*).

- Importance of a Philosophy of the Law: ***To precise idea of the end/finality of the Law which justifies the Law.*** For example:
  - With what does tend the art of the lawyer relative to the politics, morals or the economy?
  - With what is used the Law?

-Necessity of this question
The direction of the words most used in Law (obligation, contract, possession, property, right etc.) is vague and difficult to define.

-However, this general can disappear only one known time the end from the Law.

4. Law and Religion

In immense human communities, the Law is dependent not only on one morals, but on a religion which prescribes the orders and the standards (Judaism, Islam, Buddhism, Taoism…).

There is a theology which fixes the dogmas and specifies what one must believe.

There is also the "Torah", which prescribes with believing what they must make or not to make."

5. Various attitudes of the populations with regard to the Law. That is related to the specific culture (typologies)

In the **Western countries**, one is always anxious to make what is in conformity with the right, which is allowed.

But in the traditions/"honor" of the **Eastern world, in China, in Japan,** there are contempt for the right. "For honest Japanese, the right seems an undesirable thing, of which it is desirable to move away as much as possible". The moral obligations, the religious rules are sufficiently powerful, on does not need to resort to the legal rules to arrive at an agreement.

The *friendship*, the *harmony* is not necessarily the results of the lawsuits and the Courts.

TP. Discussion. Le principe de « **tout ce qui n'est pas défendu par la loi est permis**".

Quelles sont les sources d'obligation morale ? Cela conduit à un libéralisme morale, à la limite de la barbarie.

Il y a d'autres sources d'obligation : la culture, la famille, la Religion, la morale. Discussion

6. Comprehension of Law

How to define the Law? To answer this question, it is necessary to plan the right under two aspects:

1. (by form) As **a legal** phenomenon (cfr legal formalism)**;** it is the point of view of the lawyer. One wonders what the legal provision? Which are its characteristics?

2. (by content) As **a social human** phenomenon**;** it is the point of view of the philosopher. One which is it his relationship with justice, politics, economic one.

RIGHT	
Feel subjective	**Feel objective**
Personal prerogatives conferred to the citizens who can under the terms of that do something or require others… v.g. that one respects my dignity, my honor, my fame	The right is the whole of the rules which allow the correct normal operation of the social state (**Title of right: law, contract, …**)

7. Characteristics of Law according to lawyers:

Social character

- As function of to organization of society:
- Prevision and solution of socials problems
  So: any law can be **useful** (social utility) and **practicable** (It seeks practical solutions).

Obligatory character:

- Imperative of the Law is categorical like morals.
- It is not conditional.

Official character: formulated by the qualified official body/ promulgate by **public authority.**

Permanent character: it remains until its abrogation : (Longtime)

Universality or General: The rule applies not to all the universes, but to an open category people; not with a given individual.

"sanction": Its observation is sanctioned by the force.

8. Law and Ethics

Morals	Law
Morals controls the intentions and the "vouloirs".	**Law** considers these intentions if they are **exteriorized** in observable acts or omissions.
(Source of obligation is conscience) **Principle of morals** is in the conscience; is human aware is guided by the moral virtue of prudence.	**(Source of obligation is authority)** Law is outside, it is imposed by the proper authority.
If morals has its sanctions, it does not have means of constraint. The distraint of a moral precept would remove any value to him. Manners do not involve obligation unless the law or jurisprudence does not specify it: it is not then any more of simple suitability, but about Law.	**Law** has sanctions.

CASES :

"Positive law may depend on the contexts of political systems, economics, collective beliefs and religious convictions. But ethics is absolutely independence, because it comes from pure reason. - Some conflicts: examples of conflicts between ethics and law. - Ethics prohibits what the law allows, … or vice versa, - Ethics allows what the law forbids. Examples… - Relativism or a universal principle to get out of this dilemma?	*« La loi positive peut dépendre des contextes des systèmes politiques, économique, des croyances collectives et des convictions religieuses. Mais l'éthique est absolument indépendance, parce qu'elle vient de la raison pure».* *Quelques conflits : exemples de conflits entre l'éthique et la loi.* *L'éthique interdit ce que le droit permet, … ou inversement ,* *L'éthique permet ce que le droit l'interdit. Exemples…* *Le relativisme ou un principe universel de sortir de ce dilemme ?*

Concept of Ethics

What is Ethics?
The law does not add anything more; The nature of law is to recall that is a being of virtues, a moral agent and that it must acts thus.

General definition

Ethics is the science of the Good and the Evil	**Questions:** Doesn't it know what is good and evil? is it necessary to study ethics? Isn't the moral law co- natural with the man? Morals is it universal or is it particular?

Guiding principles

Any agent acts according to its nature: The man is a reasonable being and free; and must act thus The men are in relation of universal fraternity and must act thus	**Questions** -Does the man know his nature? -The great ethical questions continue to defy the men and the organizations. -The moralists refuse certain decisions, under the arguments that it is against nature. Do the person have same conception of the nature of the man? So, do the men progress in the knowledge of the nature of the man? -Question of static and dynamic nature of the man? « Ex, la guerre est-elle bonne, l'homosexualité »

Etymological and operational definition

Ethics comes from "Ethos" "Models of behaviors "Moeurs" Material object of ethics is human	**Remarque:** -Since human acts are also studied by other social and human sciences (humanities: sociology, law, politics, economics...).	Questions: To find , in the Rwandan society /practice or in the world, the legal, economic, social acts, but which don't consider ethics ?

acts.	-These sciences have norm are which harmonize the behaviors. -But these norm are not necessarily relatives with good or evil. -Specificity of Ethics: Ethics specifies itself by the study of **morality** Morality is conformity or no conformity (malice) of these acts to the ideal rules of the human conduct.	

Ethics and culture

Culture	**Ethics**
✓ is produced the human genius in view of its adaptation to nature, art, religions, sciences and philosophy and technology. ✓ is particular and contingent, limited in space and time; ➢ *Target is normality, non morality, but conformism*	Is critical, Reference is Morality Questions: To find, in the Rwanda cultures/practice but which don't consider ethics ?

Systems de moral

Morals of Happiness

Fundamental proposals	**Question of application**
1. Any human aspires to Happiness 2. Where to find happiness? Which is man the finality of Human? 3. In a contemplative life: knowledge 4. In the life according to virtues': "Habitus" provision to do good act ✓ The virtues are ways of being which dispose the subject, in a durable manner to act efficaciously/efficiently in view of its moral	Which is Happiness for the man in the Rwandan society? To justify your choices ?

perfection. **The virtue is a life of Just medium (measure) between excess and the defect**.	

Sorts of virtues

Greeks distinguish two categories of virtues (Socrates, Plato, Aristotle)		**Application** -Which are fundamentals virtues "Cardinales" at the Rwandan ones? - To make a exercise go up (to progress until) fundamentals the virtues "cardinales" in at the Rwandan society…
intellectual virtues	Improve intelligence. They are those of speculative intellect and correspond to wisdom: to have wisdom is to have intelligence or knowledge of the first causes or principles; it is also to have science or knowledge of particular laws to each science.	
moral virtues	Are those of practical intellect, they improve the will and freedom/liberty, they consist in a just milieu of reason determined by the wise or sage or the right reason: they are justice, courage, temperance…	

Religious morals

Le moyen âge développe une philosophie « théocentrisme ». Dieu est -cause première, par origine -Couse dernière, par finalité	
Morale (de la religion)	
Dieu	
as first cause world, by creation	Final Cause Bends last, by divine government And by finality 1. Union or the exstase for the saints. **2.** Love or the way of the illumination for the mystics, **3.** Grace for the Christians
Monde (homme)	

Kant, Morals of the duty: formalism

Principle:
"Acted thus, only because it is your duty ". The formalism "Kant" melts the duty and the law on the categorical imperative formulated by the reason. This imperative is opposed to the requirement which would be hypothetical or conditional: *" If you acted thus, then...".*

Categorical imperative: "Maximes"	Formulations	Question An act completely not involved is it possible?
1) **"Maxime" of the universality**	Always acted according to a maxim such as you can want that it becomes at the same time a universal law, - or so that the maxim of your will can always be worth at the same time like principle of a universal legislation of nature, or briefly, so that your action can be used as universal rule. The base of this principle, it is that reasonable nature exists like an end in itself.	
2) **"Maxime" of the respect of man**	Acted so that you treats humanity in your nature and that of others always at the same time like an end, never simply like a means.	
3) **"Maxime" of freedom/liberty (of autonomy)**	Always acted as if you were free.	

Systems of negation of Ethics

systems	Définitions
Skepticism	Negation partial or total of the truth
Relativism	Negation of any universal principle of the moral
Utilitarianism/ Conséquentionalisme	The good is the useful one
Morals of situation	To act according to cases'
Evolutionism	According to -The law of the struggle for life where most extremely survives, weakest "disparait". -law of the conservation of most extremely

	"surhomme"
Nihilism	*Negation of any transcendence which would be with the top of the man*

Principle be practical solutions of the moral problems

About the conscience

Definition
-Is the capacity of establishing moral judgements. -It is the practical judgement of reason on act considered as good and having to be accomplished or as bad and having to be omitted or avoided.

Moral conscience is also:		Last considerations
-Autonomous/ Immanence: it is as an interior voice which speaks to me	-Transcendent/ heterogeneous: it is as if this voice came from outside	The conscience is my last judge: it is always my conscience which knows ego very, that I am innocent in spite of the unjust or guilty culpability in spite of apparent innocence.
-Singular/ the moral judgment is particular for me, it comes from me like individual	-Absolute/ universal: the moral conscience is universalisable for all the correct consciences (conscience droite)	

Principal rule of conscience	Situations		Anomaly of conscience
	Cases	Solutions	Before act: Perplexed
1. Always to obey a correct moral conscience. 2. Never should act with a doubtful conscience.	When the doubt relates to the obligation:	to always go in the direction of law (obligation) and to pose the act	(conscience (trop d'hésitation avant d'agir)
	When the doubt relates to the permission:	to omit the act	After act: Scrupulous (conscience
	When the doubt relates to the	To require the surest means,	During the moral judgement: Weak (relachée)

	effectiveness of the means (obligation to be useful itself only of the sourest means),	because the end must be in the making	conscience

About Libety

Concept	Determinism	
Self-determination Auto-nomy « libre arbitre »	Theological, according to the theology of predestination	The man acted as God wanted in his program of creation "predestination ",
	philosophical Bergson, according to the principle duration "Principe de la durée continue".	The free act is rather the continuation continues of all the duration of my existence.
	physics, physiological, psychological sociological,	Every person is conditioned by his temperaments, characters, group and society.

About Responsibility

Concept	Remarks
The man is reasonable and free, is also responsible (accountable) of his acts. Responsibility is the capacity and even the obligation that an agent answers for his/her acts. Responsibility is function of knowledge and of will. ✓ Negative: by omission to make (decision) ✓ Positive: by act (decision)	The human person is responsable of of acts (direct) and their consequences envisaged (estimated)

Question: What are the limits of responsibility?

		Relating to **intelligence**	- Ignorance (not affected) - Forget - Error
	Immediate (prochaine)	Relating to **will**	- Passion - Fear (crainte)

LIMITS OF RESPONSABILITY		Relating to **Execution**	Violence	
	Non immediate (Eloignées)	**Non pathological**	**Intrinsic**	- Character - Temperament - Ages - Sexes - heredity
			Extrinsic	- Family - Education - Profession - State
		Pathological	**Neurosis Hypnoses Narcotoques**	

(Note: the top row also contains "- Practice (habitude)" above "Violence")

According to the components (origin, factors) of morality

Act	Indifferent (physics)	Receive its morality (good or bad) of the reasons and the circumstances)
	Bad	Never become good or indifferent (the end does not justify the means)
	Good	With - good intention - good circumstances Act is better
(Intention)	Give moral contents to the indifferent act example to have access to credit (indifferent act) with intention not to refund (flight)	
	Can augment or diminish morality	
	Morality the act can change	
Circonstances	**Question** what?: act Why: intention/reasons **Circumstances:** Who? Where, When? How? For which? By which means? How much time?	
	Effect	Certain circumstances changes the nature of the act
		Certain circumstances changes the degree of morality: augment or diminish

According the tolerance of the evil

Question: Existence of the mixture of the good and the evil The problem of the tolerance of the evil		
Conditions of allowing the evil	**Cases**	**conditions**
The evil should not never be desired for itself, but only one consequence	-Sometimes, one is held to arrive the evil. In this case, it will be badly to allow it -Sometimes one can tolerate the bad consequences of the act, if to abstain would lead to a greater evil -Sometimes, one cannot want an evil without allowing the existence of an evil.	**Conditions:** 1) The act to be achieved must be good or indifferent 2) The good should not be obtained by means of the bad effect 3) The bad effect should not desired for itself, but be only allowed (accidental) There must be sufficient proportion to allow the evil. Deux cas, p.107-108.

In case of Conflicts between rights and duties (obligations)

Cas	Solutions
1) A person has the right of… other A the right to prevent it 2) Two people have the same right on only one thing 3) The same person has two incompatible duties 4) The same person must make such thing for a person and abstain from some for another	1) The right or the duty the fort prevails on weakest (x malade et x en bonne santé) 2) The negative right never not to do something of intrinsically bad prevails.
	General standards
According to the subject:	1) The noblest person (God before…other after, parents before… 2) Intimacy/ relation (parents, friends, before, ….)
According to the term of the right	1) The general (Bien commun/général) 2) In the order (level): country before, family after, family before, individual after

According to the matter	1) The most serious matter (heart before the body, life before the property 2) The largest urgency (to fight a fire before reading a book)
According to the title of the right	1) The law highest (Divine, natural, human 2) The title most clearly: the certain one before the doubtful one
According to the finality of the law	Equity is preferable to legal justice
According to the current liability of the right:	*The man is required to obey a law right, but does not have to obey an unjust law, including by disobedience: Greve, mais a condition* 1) *Qu'il existe des abus irrémédiables.* 2) *Que les avantages escomptés compensent les maux qui résultent de l'exercice des résistances. Ne jamais employer des moyens intrinsèquement immoraux.* 3) *Que le respect des droits de tous soit garanti.* 4) *Que la gravité des motifs soit proportionnelle aux maux actuels.* 5) *Qu'on s'assure d'avoir épuisé tous les moyens pacifiques.* 6) *Que le conflit soit déclaré par une autorité légitime.* 7) *Que la victoire du droit soit garantie.* 8) *Que les conflits soient menés par une intention droite.*

9. Law and personal conscience

- *Notice on the moral conscience with the which Law appeals also:*
- The moral conscience is the capacity to pose moral judgements;
- it is the practical judgement of the reason on an act considered good and having to be accomplished or as bad and having to be omitted;
- it is at the same time:

-**Autonomous/ Immanence:** it is as an interior voice which speaks to me	-**Transcendent/ heterogeneous:** it is as if this voice came from outside
-**Singular:** the moral judgment is particular for me, it comes from me like individual	-**Absolute/ universal:** the moral conscience is universalisable for all the correct consciences (conscience droite)
The conscience is my last judge: it is always my conscience which knows ego very, that I am innocent in spite of the unjust or guilty culpability in spite of apparent innocence.	

The principal rule of the conscience is such as it is necessary always to obey a right and unquestionable moral conscience and that one never should act with a doubtful conscience.

10. Law and justice, according Aristote: "Ethique à Nicomaque"

Ideal definition of justice: perfection

✓ Particular justice, synonymous with holiness.

Justice according "Ethique à Nicomaque"

i. « General justice", it is Morality. The moral law is the only control of the virtuous man. Aristotle identifies legal justice with the total virtue.

In this direction, the law overflows the extent of the right.

ii. Particular justice, it is the division according to the principle of the equality. The equality sought by justice is:

- **a- Geometrical or distributive** (*proportional*) as regards distribution, distribution of the goods or the evils, the advantages and the social richnesses, according to the merit.
- **b- Arithmetic** or **commutative,** as regards exchanges, absolute equality) of the exchanged things.

> ***(Legal justice: Law)***
> ***Equal justice: divide goods***

Origin of law according Aristotle
- ✓ The man is reasonable and virtuous nature
- ✓ The man lives in a world of the generation and corruption
- ✓ (Certain circumstance requires more wisdom, sciences and intelligence)

The man is a virtuous being. But it is corruptible. The law has as a function to force the man to remain virtuous.

11. Equity and necessity of equity

Equity is the feeling sure and spontaneous of what is right and unjust. It is also the habitus to conform its control to this feeling.

Equity has as a role to correct the imperfections of the legal justice, whose defects are:
- *Universality: the particular cases escape the law;*
- *The possible error of the legislator;*

- *The social, political, economic, religious. system from where it emanates, which perhaps just or unjust;*
- *Evil intrinsic with nature, even reasonable of the man; inevitable evil.*

The other difficulties are related to legalism

- *To draw up a complete list of the texts;*
- *Revolt facts against the laws, the codes;*
- *Contrariety of the texts;*
- *Gaps of the texts;*
- *Interpretation of the texts ;*
- *Creative interpretation: to compensate or even go against the law.*
  "Top of the law coincides with the top of the injustice".

12. Law and Politics
In general:

1° Finality of Law and of politics, it is justice.

2° Politics indicates to the Law the finality/vision of the society
   In this case:
   i. Law is instrument of a politics.
   ii. Is serving to administration.
Problem

Finality of Law and of politics is justice.

13. Systems of philosophy of law/ Origin/*Base of law and Right/*

Rationality of law/ Right

1. **Problem: Bases of the coercive character of Law**
2. **Solution of rationalism/essentialist, Aristotle and St Thomas d'Aquin**
3. **Solution of the positivism legalist**
4. **Solution of the "volontarism"**
5. **Prospects for the humanistic current**
6. **Solution of Kantian rationalism "the morals of the duty"**
7. **Solution of the Hegelian idealism, dialectical and rationalism**
8. **Solution of scientific positivism**
9. **Solution of English utilitarianism**

Problem: Bases of the coercive character of Law

Does one of the fundamental problems of the philosophy of law consist in wondering from where proceeds the obligatory nature of the legal provision?

As philosophical question, one wonders which are the bases of **the coercive** character of the right/ Law.

Solutions/Synthesis (see table)/ Political philosophy, History of philosophy of law

	THEORY/SYSTEM	PRINCIPLES
1)	**Theory of the natural Law** ✓ **Ideal State, Plato** ✓ **Aristotle and Thomas d'Aquin**	✓ *Nature of the things (homme comme être raisonnable)* ✓ *Raison is origin of Law and right* ✓ universal reason

	Consequently : By order of hierarchy, there is:
	    1° Divine Law (Dieu créateur est aussi le premier et grand législateur du monde),
	    2° Natural law (nature of human is /dynamic or static?)
	    3° Positive law/ Human Law (expression de la loi naturelle).
	They are followed in an order of derivation.	

	"philosophes des Lumières" (17ᵉ)	Social contract
	Formalism **Kantian rationalism "the morals of the duty"**	Formal Obligation/"Acted thus, only because it is your duty "/ to respect the law because it is the law. ***It is the legal formalism*** ***Legal deontologist***
2)	**Solution English utilitarianism** **« Anglais »** **Adm Smith**	Law/right is a technique, an instrument of social control. It is invented for the wellbeing of the private individuals or the group; *interest, benefit :* • *Altruism (alter ego): to maximize the benefit of others, without consideration of the advantages or disadvantages for the author, Egoïsme : to maximize the benefit of the author,* *Utilitarisme : The good/benefit of majority of the*

		fascinating parts. *(((C'est le conséquentialisme ; éthique de l'intérêt, du bénéfice. Plusieurs bénéfices peuvent être distingués, selon le critère choisi pour déterminer ce qui est bénéfique et ce qui est nuisible :* • *Altruisme (alter ego): qui cherche à maximiser le bénéfice d'autrui, sans considération des avantages ou désavantages pour l'auteur,* • *Egoïsme : qui cherche à maximiser le bénéfice de l'auteur,* • *Utilitarisme : qui vise le bien de la majorité des parties prenantes.)))*
3)	**Sociological positivism or sociologism**	*Social Group/Society/ culture* *Positivement ou négativement (c-à-d contre ou en faveur de la culture)*
4)	**"realistic" Theory Theory of force Cfr:** **-Gorgias** **-Machiavelli Nicholas "le prince"** **-Charles Darwin** **-Nietzsche**	*Force (physique/militaire, intellectuelles, morales/ numérique)* ✓ The politic of the facts / to acquire and maintaining the capacity ✓ « Evolutionnism » of Life : The law of the evolution "EVOLUTIONNISM" according to the law of: ▪ The struggle for life ▪ The survival of most extremely The disappearance of weakest *- "Surhomme "* *- "Will for power"*

The law of the evolution "EVOLUTIONNISM"		1. natural selection, the struggle for life and the survival of most suited,
		2. the law of the conservation of most extremely,
		3. the law of the adaptation under the action of the external medium and the law of the use and non use under the internal action,
		4. the law of heredity where
		    i. the similar one produces the similar one
		    ii. the necessary variations are fixed in the

	organization and are transmitted to the descendants.
Consequence	1. "will of life un satiated/ « La volonté et le vouloir-vivre inassouvi » ; 2. Will for power ; 3. Transvaluation of the values of declining humanity (values of the altruism) ; 4. Refusal of the morals of weak, Morals of pity; 5. Adoption of the morals of the strong men 6. The advent of "Surhomme"; 7. To live dangerously.

To outline the broad outline of the currents of thought which marked the evolution of the philosophy of the Law.

In recall: any categorization is also a treason, but that is essential to try to include/understand the essence of the diversity of thoughts.
The questions about the bases and the sources of the law and the right are the question of the end of the right.

1. Solution of rationalism/essentialist, Aristotle and St Thomas d'Aquin

Aristotle is a naturalist and draws from the reason and human wisdom.
The law is included/understood in the nature of the man (it is the school of the natural Law). The source of the Law is the Reason, a universal reason, commune with all the men, from where also the contents from the laws would be drawn.

"Saint Thomas d' Acquin" belongs at the time "theocentrist". It the Law is included/understood in the State within the framework of a *Moral theology.*

The Law/right is based on the nature of the man and its end. The principle first of acting it human it is the reason, which is the rule and the measurement of the human acts. Because *"any agent acts according to its nature".*

The rule of the human acts it is the law. Thus the law is in the reason: it is an ordinance of the reason. "At the top, there is the eternal law."The eternal law is the government of the world by the divine reason".

By order of hierarchy, there is law Divine, natural law and positive law. They are followed in an order of derivation.

The contents are determined by the speculative reason and the practical reason in their contact with reality and the life, i.e., with the nature of the things; that brings the thomism closer to the modern lawyers who became aware, through the historicism and the existentialism of *the importance of this natural factor "of the things" of which they made the base of their construction.*

2. Solution of positivism legalist

It is the doctrines of the social Contract

This social contract would be the result of the assent of naturally free individuals: of - there the monopoly of the official laws whose "jurisprudence" is only the application.

It acts as one can realize of it of the heritage of the English political philosophy of XVIIe (*Locke*) and Frenchwoman (XVIIIe).

Addition. Positivism legalist can also be called the voluntarist and naturalist represented mainly by Grotius (1583-1645) and J-J Rousseau (1712-1778). It approaches the humanistic current (Charles de Montesquieu (1689-1755).

3. Solution of the "volontarisme"

The social contract is the origin of the society and thus Law. "With the social life start, the Law and morality. There can be Law and morality only where there are universal rules.

There is no universal rule where does not exist general will. The individual gives up him like being sensitive to only affirm itself like reasonable and moral.

The general will keeps in mind only the common good, it is always Law and always tends to the public utility:

"There is often well difference between the will of all and the general will; "the general will finds its expression in the law…".

4. Prospects for the humanistic current

With Grotius appears a new way to consider the law.

One does not seek any more to define the law in oneself from the ontological point of view. From now on one defines it as faculty to have or do something which results from the capacity on oneself (Liberty), on others, or the things.

That becomes one of the means for the man of organizing the society and of dominating nature to put it at its service.

The Law is a voluntary creation, guided by the instinct of sociability.

This thought is illustrated by the new creed: "the agreements, the contracts should be respected. This principle becomes the base of any life legal and social, national and international ".

Although it admits the existence of the founded natural right because, it denies any reference to the eternal 1oi, contrary to Saint Thomas d' Aquin.

Grotius separates the Law of theology as Machiavel separates morals from the politics.

The essential and ideal instrument of the realization of the right, it is the contract, because "which known as contractual, known as just".

Charles de Montesquieu (1689-1755). Current of humanism. With the base of the philosophy of Montesquieu its design of political freedom is: Montesquieu seeks the morals causes and physics which acts on the formation of the right and the State.

For him, the causes moral be (superstructure would say the contemporary Marxists) are more determining than physics (infrastructure) May S they has also an action necessary.

Thus, the three kinds of governments are based:

- despotism on fear;
- monarchy on the honor;
- the democratic mode on the virtue.

There must be a balance between the capacities obtained by a control.

The executive power takes part legislative by the faculty to prevent (presidential veto). Legislature to check of which laws which he made carried out one.

The law is not only one command, but it has a deeper base: "the lo is are necessary reports/ratios which result from the nature of the things". "Several things control the men: the climate, the religion, the laws, the maxims of the government, be examples of the things passed, manners, the manners, from where it form E a general spirit which results from it."

Remarque.

-Montesquieu raises a question interesting to make law and right of manners.

-Aristotle had believed in the virtuous nature of the man. At once, it despairs and invents the law to compensate for the weakness of the man or the part weak its being: affectivity sits of passions and the lack of happy medium.

5. Solution of Kantian rationalism "the morals of the duty"

"Acted thus, only because it is your duty ". The formalism "Kant" melts the duty and the law on the categorical imperative formulated by the reason. This imperative is opposed to the requirement which would be hypothetical or conditional: ***" If you acted thus, then...".*** The ideas of totality of Ego, the World and God structure the Reason, are operational instruments of the reason, to build sciences. Metaphysics is thus regulating reason.

Metaphysics must found morals, the politics and the Law/right. Indeed, It is necessary to morals to presuppose that the man has an **immortal heart**, that there is **God** and that the man has a **free** will. Kant finds similarities between science with metaphysics and morals:

Just as all the men admit the law of causality within the universe, all have access to the same universal moral law, as absolute as the physical laws.

Just as the principle of the need the world controls and melts sciences, freedom melts morals.

On the basis of the idea of the need in sciences, Kant formulates the morals of the requirement or the obligation. It is the formal morals whose only justification is the duty: *"do this because it is about the duty formulated by the practical reason"*.

The moral form of the judgment is the duty, formulated in categorical imperative; it is act of the goodwill. Its postulates are ***God, the immortality of the heart and freedom.*** On the theoretical level, they are only assumptions, on the plan practices they are postulates necessary.
Kant provides also famous formulas of this categorical imperative:

Maxime of the universality: Always acted according to a maxim such as you can want that it becomes at the same time a universal law, - or so that the maxim of your will can always be worth at the same time like principle of a universal legislation of nature, or briefly, so that your action can be used as universal rule. The base of this principle, it is that reasonable nature exists like an end in itself.

Maxime of the respect of man: Acted so that you treats humanity in your nature and that of others always at the same time like an end, never simply like a means.

Maxime of freedom/liberty (of autonomy): Always acted as if you were free.

6. Solution of the Hegelian idealism, dialectical and rationalism

State is regarded as absolute reality. It is the reason and ethics. Even in the shade of reality, he always wants Good

7. Solution of scientific positivism

The Law is founded on the habits and the social group. Scientific positivism rejects the theses rationalist and metaphysics of the school of the natural law, and the myth of the social Contract;

The texts of the substantive law will be imposed by the habit (*Savigny*) or forces it capacity in place, or the laws recognized by the social group. Then the legislator is regulated on the common opinion. Thus for the texts, it is necessary to place the social facts. While the judge follows his intuition, its instincts, its prejudices of class.

8. Solution of English utilitarianism « Anglais »

According to this tendency, the right is a technique, an instrument of social control. It is invented for the wellbeing of the private individuals or the group;

Notice:

All these concepts of Law forms part of sights vaster of presupposed philosophical.
Positivism, in all its forms and utilitarianism are rejections:
  - **Metaphysics (the nature of the men and things),**
  - **Value (axiology),**
  - **Nor well or badly).**

It is the legal relativism, as it brings back the moral relativism and scientist at the time of the sophists.

3: SOURCES OF LAW

1. **Natural law**
2. **The "realistic" Theory of the force**
3. **Several philosophers since the sophists of the time of Socrates until, Nietzsche while passing by Machiavelli "le Prince" believed that the Law had its source in the force.**
4. **There is a law of the strongest and a right of most extremely. The most recognized representatives this position are Hobbes and Hegel.**
5. **Utilitarianism, utility, John Stuart Mill (1806-1873) and Herbert Spencer**
6. **Humanistic theory: double human nature**

On what is based the law which emanates from the legislative power? Which is the base of these laws and   rights known as positive?

From a legal point of view, the written law, i.e. enacted by the legislator, constitute one of the sources of the right, just as the laws not written like the habit, together of not written, allowed rules like obligatory.

1. Natural law

The natural law and the natural right are former to the legislative activity of the man and independent of it. They rise from the nature even of the things: being given what are the things, they cannot be differently;

They would be essential on any spirit including/understanding this nature well;

But as it remains metaphysical and "idealists"; they are not facts, but of the designs of the spirit."

In theory, one could say that a contrary positive law with the nature of the things to the common good would be unjust ;

"the laws, in the widest significance, are the necessary reports/ratios which derive from the nature of the things."

Those which have the capacity always seek to justify the founded good their legislative decisions by calling upon the reason and the requirements of a higher right. In this direction also, a charter of the rights does nothing but clarify what one regards as preexistent natural rights.

2. The "realistic" Theory of the force

Several philosophers since the sophists of the time of Socrates until, **Nietzsche** while passing by **Machiave**lli "le Prince" believed that the Law had its **source in the force.**

There is a law of the strongest and a right of most extremely. The most recognized representatives this position are **Hobbes** and **Hegel.**

Thomas Hobbes thinks that the men with the state of nature believe the right to do everything;

They fight thus the ones Thomas Hobbes (1588-1679) against the others in a war without mercy and end.

Under these conditions the only means of carrying out peace consists in being put at the service more extremely which, can impose its peace to him. Thus the men, abdicate they in favour of most extremely the their individual rights to receive in return its protection.

Here is the origin and the base of the political power. The Master makes the law. Is good what it declares good being and bad what it considers bad being.

Hobbes thus has the theorist of the despotism and the absolutism: the force creates the right. What makes justice the positive law.

This theory is shared by Hegel Friedrich Hegel (1770-1831). "According to its philosophy of the history, to become it of humanity is the progressive realization of its gasoline, of the idea which is to him immanent.

This idea "incarne" at each great time in a privileged nation which has the role of expressing it.

However the power is the sign even of this election. Instead of being the opposite of the right, the force in is an obvious expression.

A nation called to dominate the world does not have to legitimate its imperialism, the other people are not entitled any to assert opposite it.
It would be to stop the movement by which the people most extremely carry out, under the terms of its force, a stage of the dialectical history, progress of the spirit in the world. Thus the triumph of the force is founded in right, the force is crowned and it is it which makes the right or justice.

Nietzsche retains:

Sophists   the principle of most extremely: the law was invented by the weakest men to be protected from strongest. Thus the strong men do not have null obligation to follow the laws. (Gorgias and Protagoras).

Darwin, the law of the fight, survival of most extremely and disappearance of weakest.

Machiavel, the trick and the force, two essential virtues of the Prince. He teaches that the prince is itself his own law.

Opposite/ Against Darwin, the engine of the evolution is not in the external circumstances, but it is the energy *of the Will for power*. The goal of the evolution is not to obtain so many stronger individuals.

The great number is only one means for the advent of **"Surhomme".** "L'homme crée les valeurs et les rapporte à la vie, à la volonté de puissance ».

The traditionally allowed values are those of the degenerated humanity, invented by the weak ones, crowd, the herd, the slaves to defend oneself against the forts, the Masters, the lords and in ends to lead them to the impotence.

The first step of "Surhomme" is to break the old tables of the values.

Surhomme is thus free, because freed from the values of the herd, he is a creator of his own values, he is a legislator of the herd of which he is a Master and tyrant. "Surhomme" is proud, aggressive, without pity for the weak ones, recluse, individual, aristocrat… Its principle is "this life and this one eternally" or "the Eternal recurrence".

Genealogy of the moral prejudices. The first prejudices are related to traditional metaphysics, with its characteristic opposition between the world to be it and that of appearances. The others are related on the ideals and the alleged virtues of modernity and Christendom.

Nietzsche distinguishes the morals from Biggs (of the Masters) and that of the subordinates (of the slaves). Whereas declining morals, that of the subordinates preaches the negative values, like the equality and the compassion, docility and the tender, the abnegation and humility, the morals of the men strong (of the Masters) incense what is noble, which is large, strong, which contributes to the positive development of the life.

"Surhomme". Nietzsche was always hostile with the **democracy, socialism and Christianity**, like doctrines of the equality.

Philosophy of life, as struggle

The law of the evolution "EVOLUTIONNISM"	5. natural selection, the struggle for life and the survival of most suited,
	 6. the law of the conservation of most extremely,
	 7. the law of the adaptation under the action of the external medium and the law of the use and non use under the internal action,
	 8. the law of heredity where
	    iii. the similar one produces the similar one
	    iv. the necessary variations are fixed in the organization and are transmitted to the descendants.

Consequence	8. Wil of living /of life« La volonté et le vouloir-vivre inassouvi » ; 9. Will for power ; 10. The transvaluation of the values of declining humanity (values of the altruism) ;

	11. The refusal of the morals of weak, the morals of pity; 12. Adoption of the morals of the strong men 13. The advent of "Surhomme"; 14. To live dangerously.

3. Utilitarianism, utility, John Stuart Mill (1806-1873) and Herbert Spencer

According to this principle, is good what is useful;

It is the social interest which is the source right.

The men give up the anarchistic exercise of or freedom to regulate their reports/ratios so that they can profit from the order and the social security.

4. Humanistic theory: double human nature

This theory considers that there are in the human gasoline a lower nature controlled by the instincts and a higher nature controlled by the ideal reason and inclinations.

One speaks about ideal right inspired by an Ideal of justice and human dignity.

Naturalness means here the opposite of conventional, arbitrary, artificial.

If it is true, for example, that Rousseau considers that conventions constitute the base of the legitimate authority among the men, still it is necessary that these conventions are established according to the fundamental laws of the human nature ".

Revisions and questions of discussion

Topic 1: General and specific Object and method of Law

Topic 2: Philosophy of Law and Theory of Law

Which are the distinctive elements: Science of the Law, Philosophy of Law (ex: Law (positive, facts, empirical method, right and less values… Philosophy of law: values and significance of the things, nature of the things, reflexion…)/ *-Quels sont les éléments distinctifs: de la science du droit, de la philosophie du droit (ex : droit (positifs, les faits, méthode empirique, droit et moins valeurs, … Philosophie du droit : les valeurs et signification des choses, nature des choses, réflexion,… Expliquer l'une ou l'autre des caractéristiques ?*

What enables you to understand positions coming from theory of legal science/ positivism legal or philosophy of law. Illustrate your comprehension for an example of legal discussion.

Topic 3: sources of Law

a. Divine Law/rights, Natural Law/rights, Human/Positive Law/rights. In the design Thomist/Thomism/Aristotelicothomism, the law comes from God. God is the first Legislator of the world. The positive/human law is expression of the nature of the man and the nature of the things. The positive law is an expression of contours of realization. Can the positive law oppose the first two levels? Give some cases in the history of the Law?/

-Dans la conception aristotelicothomiste, la loi vient de Dieu. Dieu est le grand législateur du monde. La loi humaine/positive en est l'expression de la nature des hommes et des choses. La loi positive est l'expression de contours de la réalisation de la loi et des droits divins et naturels. La loi positive peut-elle contrarier les deux premiers niveaux de la loi ? « Exemples dans le monde »

Question: How are the three levels of Law: "divine", "natural", "human or positive" complementary?

b. Discuss/ Topic of discussion: Law and right are arbitrary creations of the legislative power

Topic 4: Law and Culture

a) Discussion: Can societies / State which does not have same the beliefs /philosophies have the same Laws, to promote the same rights? Give some cases of illustration?/ Peoples which does not have the same conception of world: tradition, religion, philosophy… can exchange laws or to have the same ones in interpretation of laws.

-Les sociétés/Etats qui n'ont pas les mêmes croyances/philosophies peuvent-elles avoir les lois ou promouvoir les mêmes droits ?

b) Can the society/social group, without any other reference except what it draws from itself, the legitimate source of the law and the right? /

-La société, le groupe social, sans aucune autre référence sauf ce qu'elle tire d'elle-même, peut-elle être la l source légitime du la loi et du droit ?

Topic 5: Social contract

a. *How the society can change the man? To become good whereas it was bad (Thomas Hobbes)? To become bad whereas it was good (J.J Rousseau)?*

b. In is the indirect democracy, with which degree the people always represented to obey the laws which the authorities indirectly elected publish?/*Comment la société peut-elle changer l'homme ? Devenir bon alors qu'il était mauvais (Thomas Hobbes) ? Devenir mauvais alors qu'il était bon (J.J Rousseau)?*

c. In is the indirect democracy, with which degree the people always represented to obey the laws which the authorities indirectly elected publish?/*Dans la démocratie indirecte, à quel degré le peuple est-il toujours représenté pour obéir aux lois que les instances indirectement élus éditent ?*

d. Vis-a-vis is the capacity, with all its forces, which the force that the people have to require his rights?   / *Face au pouvoir, avec toutes ses forces, quelle est la force que le peuple a pour exiger ses droits ?*

Question 6: State-reason-Ethics/Etat-raison-éthique

a. Can one continue to support this thesis of State-reason-ethics in spite of the official dictatorships, injustices and other forms of contingencies of the politics? Can one refuse this thesis without destroying the State and returning it not essence? / *Peut-on continuer soutenir la thèse de l'Etat-raison-éthique malgré les dictatures, les injustices étatiques et autres formes de contingences de la politique ? Peut-on refuser cette thèse sans détruire l'Etat et le rendre non essentiel ?*

b. Discussion : Can the society/social group, without any other reference except what it draws from itself, the legitimate source of the law and the right? / *Discutez : La société peut-elle être la source légitime du droit*

c. *Topic of discussion :* -"Law is between metaphysics and utilitarianism"/ Le droit est entre la métaphysique et l'utilitarisme

Topic 7: Law, Metaphysic and Utilitalism, Utilitarianism as source of the law and the rights/Utilitarisme comme source de la loi et des droits

a. Thesis affirms that the source of the law and the right is only the useful one, the interest. It is the objection/negation of absolute in favor of relative and the conventional one. This thesis is still bearable although it denies any reference to nature of the men and the things and with the values?/ *-Cette thèse affirme que la source de la loi et du droit est seulement l'utile, l'intérêt. Elle est le rejet de l'absolu en faveur du relatif et du conventionnel. Cette thèse est encore soutenable malgré qu'elle nie toute référence à la nature des hommes et des choses et aux valeurs.*

b. This Would the social contract be a simple business of convention between individual or individual and sovereign?   Explain your answer?

Topic 8: Law and politics.

a. Is it possible and legitimate that the Law is very independent of the politics? Which is the legitimacy of the politics to indicate the ends/finality and procedures of the Law?

b. La politique et le droit sont-ils absolument opposable?

Topic 9: Law, justice and equity.

a. How to justify the importance of equity like supplement to communitative and distributive justice?
   -Comment justifier l'équité, comme supplement de la justice commununutative.

b. Discuss/ Topic of discussion: Equity is negotiable in margin/ outside (en marge) of the laws/
   -L'équité est négociée en marge du Droit et de la loi .

Topic 10: Wisdom of lawyers.

He wisdom of a judge can it also source of its credibility?

Topic 11: Interpretation of law and right.

Aren't the Law and the texts of law enough clear not to require interpreted it?
Which are the difficulties of comprehension and interpretation of Law/right?" .

Topic 12: Practical Law and moral conscience.

Is it essential that the judge, in his work, calls upon the conscience of the people to his load?

Topic 13: Comment

1. Comment on: "All that isn't defended by the law is allowed"?
2. Which is the importance to define the finality of Law?
3. Which is the direction of the law according Aristotle and Plato?
4. How to justify the invention of the law from the point of view of the Ethics and the policy of Aristotle?
5. How to justify the invention of the law from the point of view of the policy of Plato?
6. The Law is also normative, like the east the Culture and Ethics. When the Law is in conflict with the culture or Ethics, which the option to privilege?
7. Legal Formalism: relevance and difficulties.

Isaie NZEYIMANA

PANORAMA OF

Philosophers and Philosophy

« Panorama » philosopher and philosophy

Enigma of the Universe

Too strong hypothesis:
Evolutionism or Creationism.

A the theory of the big-bang;
Universe like a kind of fog,
sun, comets and their speeds;
formation of our planet;
atoms, oxygen, hydrogen
carbon, the silicon… of the

The first Man

"Primates", like the
gorilla or the
chimpanzee and the
process driven,

Which ends in the
birth of our species is
far from being
elucidated… *Homo sapiens.*

►**8000-4000 before** JC: Establishment of agriculture in bottom the Mediterranean (Tiger, Euphrate) and in the valley of Nile. See Egyptology, as African Philosophy

►3 000-1280: Egyptian; tradition, of the Pyramids and the Pharaons.

► Colombian Tradition ine of Central America (- 800 at +1400 after J.C): 1 ^{eras} pyramidal constructions… astronomical observations… original metallurgical work.

► **India: Buddha (563-483) and the Hindu tradition:** Veda, the mystery of the

world, the spirituality of Yoga: the fast, asceticism, in peace and silence for a kind of extinction of oneself in All-A: the Nirvana which is the end of the cycle eternal of reincarnation.

► **China: Confucianism and Taoism.**

The Confucianism goes up with the teaching of Confucius (KONG Zi, -551-479), is a moral and political philosophy whose virtues fondatrices are: humanity, uprightness, decency, wisdom and royalty.

- LeTaoïsme and CAT-YOU-King (5-3 èmes centuries av.J.C.) : All is suffering; the significant one for the man is to follow Tao/la Voie delivery.

THE CITY OF ATHENS ; (VIII E century)

THE DEMOCRACY IN ATHENS ; (VIII E century)

FIRST GREEK PHILOSOPHERS

Distinction enters the action and the thought: rationality based on the explicit concepts of

Astonishment how there is something rather than anything, to be it rather than nothing! With is the going beyond of moving, which the immutable, infinite, indivisible substance paramount?

SCHOOLS of PHILOSOPHY

► **Ionian School. Thalès** (637-547): water, gods; **Anaximandre** (610-547/46: Archè, the principle, the infinite one, the unspecified one, the unlimited one is at the origin of the appearance of the opposites. In 580 it draws up already a true geographical chart of the known world. **Anaximene** (570-526): air, the breath, the heart of the world. **Héraclite d' Ephèse** (540-475): one and the multiple, with the going beyond of the opposition of the opposites: the unit, the logos, the universal reason which controls all, the verb, measurement.

> ►**School pythagorician**
>
> **Pythagore** (570-496): The mathematical model in any thing and the released reflexion of the observation.

> ► **Eléate school.**
>
> **-Xénophane** (589): the supreme principle is Theos/Good. It states the rondity of the ground;
>
> **-Parménide** (530-444):   the being is, the non-being is not, to be is identical to it to the object of the thought, the truth, the thought itself;
>
> **-Zénon d'Elée** (490): by the reasoning by absurdity, refutes the possibility of the movement and fact apology for Parménide;
>
> **-Empédocle** (490-430): two forces of attraction in the world: allegories of the Love and hatred, alliance and separation;
>
> **-Leucippe** and **Démocrite** (490-460): the atoms are the negligible parts, indivisible, immutable, different, eternal. Are separated by the vacuum which makes possible their movement. It is the atomism.

► **Hérodote** (approximately -484-424 , **Thucydide** (approximately -460-400) and **Hippocrates** (-460-377) : history, medicine, destiny, fate.

SOPHISTS

► **Protagoras d' Abdère** (approximately -480-410) and **Gorgias de Léontin** (approximately -485-410) : power of the speech, Rhetoric or the sophistical one, relativism. Euthydème and Dionysiodôre: art to plead and compose of the plaidoi.

► **Socrat** (470-399): Fights against the sophists, seeks the universal one like base of knowledge and the action by the way of the dialectical one: the art of questionnement and the dialogue; **399**: lawsuit of marked Socrate of impiety.

Disciple of Socrat:	Disciple of Plato:
► **Plato** (427-347): **Idealism** (assertion of a world of the Ideas), **Rationality** of mathematical model founded on the ideas: the shapes of the things, timeless, base of the philosophical knowledge and to act it political.	► **Aristotle** (384-322): **Realism of the world universal concret.** **Intelligibility to be it,** like concept in logic, substance composed in physics, substance separated in Philosophy 1 era, reasonable in ethics and policy. Analytical proposal and conclusive Syllogism.

► **Hellenism** (- 2 ^{E} - 2 $^{E+}$ after J.C.) : Period going of Alexandre the Large one, king de Macédoine who connects 3rd G ypte and all East to India. From 50 av.J.C., the conquests of Rome, also Greek Province, penetrate far in Asia and get along in the West as far as Spain; vast culture of Greek prevalence characterized by the cosmopolitanism and the moral and mystical transition.

Influence of Démocrite and the Atomism

► **Epicure** (-341-270): **Epicureanism**: a materialism, an empiricism and a morals of the pleasure and equanimity;

► **Zénon de Cittium** (336-264) fonder of **Stoicism**: - a physics, - a logic and a morals where the universal need agrees with freedom and melts the morals and the happiness of the wise one. **?**

► **Pyrrhon:** (-365-275): **- universal Skepticism; - Eclecticism**

The cynical ones, founded by Antisthène (445-365), the figure of Diogène de Sinope (413-327): Wisdom based on freedom, autarky, impassibility (apatheia or apathy), the effort, the asceticism, the interior

INFLUENCES OF PLATO

► **Philon of Alexandria** (-25 – 40+ J.C) did not write anything, is followed by ► **Plotin** (205-270 after J.C.): one is former to the being of which proceeds by degrading the other beings, as by **emanation.** The rise is a process of purification thanks to the Eros (in art), of contemplation of the forms and the Beauty of the Unit (the thought) and of "extase" (meditation and meditation).

.

INFLUENCES OF PLATO

►**Saint Augustin** (354-430): **Beginnings of Christian philosophy**

► **Denys**

D'Aréopagite (5^E century): Knowledge is also the act of return to God together Love "Union or the "extase".

► **Jean Scot Erigène** (810-875): **the dialectical one** applied to the presentation of the world in four moments, or "chiasma": God causes Première, the Verb, the Universe and God causes final.

INFLUENCE of Aristotle

↓

► **-The Arable Ones: Al-Fârâbî** (towards 950)   puts the logic of Aristote at the service of Moslem theology, the dialectical one with the service of theology;

► -**Avicenne** (Spanish philosopher, 980-1037): *the being as being is the object first of the intelligence;la required of all the beings; requires and the eternity of creation like emanation;*

► **-Averroès** (1126-1198)**:** relationship between the faith and the reason which leads to *a rationalism* where reason judges the faith, philosophy evaluates theology, Coran is probable and must be subjected to the reason. With the eyes of Al-Ghazâlî**,** are all of the irreligious people, because of their rationalist theses. The dialectical one is the art of the devil.

At the beginning of IX [E]**:** the Pope crowns the Emperor Charlemagne (Charles the Large one) in Rome King of the Francs which will be at the origin of the birth of Western Europe. It is "the Rebirth carolingienne": Charles Magne, Emperor of Occident since 768 edict a law on the school organization in the Empire whose center is the dialectical one (Logic or philosophy like Liberal arts) and crowned Sciences.

INFLUENCES OF PLATO AND ARISTOTE

The quarrel of the universals of remote origin at Plato and his Aristote disciple: **- Saint Anselme** (103-1109): le realism, *the ontological argument.* **Abélard** (1079-1142):le conceptualism**; - Roscelin** (1050- 11120): nominalism.

The Universities (+11-13 [E] centuries): a corporation of the people organized around the activities, directed Corporation of Faculties, by a Vice-chancellor, elected by the professors and the students.

Saint Thomas d' Aquin,

(1225-7/3/1274)the universality of the thomism is founded on the fact that the principle of universal intelligibility does not leave anything apart from its spring.

XIII [E]**: Gothic art: With a**rchitecture of the Cathedrals, ogival form (conical top forming an acute angle.

Decline of the Scholastic: Roger Bacon (1210-1292): **empiricism,** Jean Duns Scot (1266-1308): **formalism,** Guillaume d' Occam (1280-1349/1350): **terminism and nominalism,** Main Eckhart (1260-1327): **mysticism.**

THE LEBIRTH (15 [E] -16 [E] centuries):

Refusal of any form of authority, in religion, science, policy; progressive separation of philosophy with theology, the invention of the compass, the powder and printing works.

MOVEMENTS OF THE LEBIRTH

► **Religious movement: - Martin Luther** (1483-1546), **Jean Calvin** (1515-1564): Reform religious.

Scientific movement: - Galileo (1564-1642): A physicomathematical science; the law of inertia; **- the Polish astronomer Nicolas Copernic** (1473 1543): "Of the movement of the celestial bodies": a heliocentric design of the world; **- the German astronomer Johannes Kepler (1571-1630)**: ellipses: oval trajectories. **- English Isaac Newton** (1642-1727**):** the solar system, movements of planets, laloi of the gravitation or the gravitation.

Political movement:

Nicolas Machiavel: *The Prince*, in 1532: a policy of the facts, independent of morals: how the prince acquire does, preserves it, loses it the capacity? The policy, it is the art of the war.

1650-1700: Classicisme (**intellectual Movement** in France) in Arts and Literature: worship of Greek and Roman antiquity, worship of the perfection and measurement.

XVII E: **Baroque art** (of Portuguese, beads irregular) where contrary to the Rebirth which preached simplicity and the harmony, one enters to the extreme of the negation

.

► **Descartes** (1596-1650). **:** Universal Mathematism applied to metaphysics: conjunction between science and metaphysics; method of intuition, doubts radical but provisional.

RATIONALISM AND IDÉALISM

EMPIRISM

AND

MATÉRIALISM

► **Blaise Pascal** (1623-1662): L **is right and the heart,** dogmatism and skepticism.

► **Francis Bacon** (1561-1626): The principle of any knowledge is the observation of nature. First effort of the spirit: to get rid of its prejudices (idols); logic of

► **Spinoza Baruch** (1632-1677) a universal rationalism guaranteed by the universal intelligibility, based on the Single substance defined as what is in oneself and conceived

► **Thomas Hobbes** (1588-1679): the mechanism, empiricism and logical nominalism

► **Malebranche Nicolas** (1638-1715) Occasionnalism, the single causality of God, Vision of the truths as a God.

► **Leibniz** (1646-1716) L E principle of sufficient reason, the truth of reason and the truth of facts, théodicée of optimism, the dynamism, *the preestablished Harmony*.

► **Wolf Christian** (1679-1754): Any true judgement is analytical and is known a priori and melts the

(17 ²ⁿᵈ -18 ²ⁿᵈ century):

THE CENTURY OF THE

John Locke (1632-1704): the origin of the ideas and extended from knowledge do not exceed the observation.

► **Berkeley** (1685-1753): Empiricism and immaterialism: "to be, it is perceive to be perceived".

►**David Hume** (1711-1776): empiricism, nominalism, skepticism

Encyclopaedia (1751-1780), Montesquieu, (1689-1755), **Voltaire** (1694-1778), **Jean Jacques Rousseau** (1712-1778), **Condillac** (1715-1780), **Diderot** (1713-1784), **the Marquis de Sade** (1740-1814):

Social philosophy and policy based on the principles of equality, kindness and freedom of all, obtained in the refusal of any form of authority; to leave the minority while serving as its own reason without control of others; L E rationalism; liberalism sociopolitic and economic; physiocrats; L be Human right; return to nature and the natural religion.

►**Kant** (1724-1804) :

Transcendental Idealism which brings back the subject to itself, as a reason which informs the things, in science, morals and policy. It is here that the reason overcomes the phenomenism, ruins the dogmatic one and settles

The Romanticism (a intellectual movement): against classicisme, return and revalorization of the feeling as what constitutes the man, and which is expressed in the artistic genius.

►**Fichte** (1762-1814) : ego, still like effort or duty formulated with the requirement.

►**Schelling** (1775-1854) **:** Absolute, but still in Art.
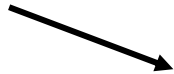
►**Hegel** (1770-1831):

Dialectical idealism and rationalist who looks at the Idea, to be posed in oneself, to come to fertilize nature, the history, the culture and the institutions where it is objectified, to return to oneself through the moments of art, the religion and the philosophy defined as the knowledge that Subject/Absolute/Reason / Idea/Spirit have itself.

INFLUENCES of HEGEL

Partial opposition

P our and counters Hegel

►**Feuerbach**

(1804-1872): essence of Christianity (1841): atheism,

►**Karl Marx** (1818-1883): dialectic and historical materialism.

Radically opposition

►**Schopenhauer** (1788-1860: to want to live, pessimism.

►**Kierkegaard** (1813-1855): anti intellectualism, categories and spheres of the existence.

►**Nietzsche** (1844-1900): will for power, non declining morals, but of Superman, the eternal return, contemporary elitism.

INFLUENCE EMPIRICISM

► **August Comte** (1798-1857): positivism: laws of the three states. ►**Charles Darwin** (1809-1882):

Evolutionism. Origins of the species (making continuation of Lamarck: 1744-1829). Law of the natural selection.

INFLUENCES OF EMPIRICISM

►**Herbert Spencer** (1820-1903):

Transformism/laws and the direction of the universal evolution:homogeneous simplicity with differentiated complexity.

►**Sigmund Freud** (1856-1939): the psychoanalysis.

►**Emile Durkheim** (1858-1917) and **Lucien Lévy-Bruhl** (1857-1939) sociologism.

OPPOSITION

►**Blondel Maurice** (1861-1949): the being and the action

►**Bergson** (1859-1941)**:** Intuitionalism. Time measured like spaces scientists at the time thought like duration and the life like vital Elan. Supplement of heart to technology and sciences of the modern type; effort of reconciliation between science and philosophy.

►**Pierre Teilhard de Chardin** (1881-1955): Paleontology; evolution and the hominisation; the vastness and the beauty of the world; divine Medium.

►**INFLUENCES OF RATIONALISM, EMPIRICISM AND POSITIVISM**

►**Cournot Antoine (1801-1877)** "a careful rationalism"

►**pragmatism** :

James William (1842-1910),

John Dewey(1859-1952)

- **Analytical Philosophy, logical positivism or Neo-positivism:**

►**Gaston Bachelard** (1884-1962): obstacle (rupture) epistemological on the way of scientific skepticism

►**Karl Popper** (1902-1994): the principle of the refutability

►**Russel Bertrand** (1872-1970): logic like instrument for mathematics

►**WITTGENSTEIN Ludwig Joseph** (1884-1951): the world is analyzed in atomic facts; philosophy must be the language of sciences.

►**Edmund Husserl** (1859-1938)

Phenomenology

Against psychologism, the naturalism and positivism, it is necessary to oppose phenomenology: philosophical, phenomenologic and eidetic reduction.

INFLUENCES Of HUSSERL

► **Martin Heidegger** (1889-1976): time and the lapse of memory to be it.

►**Karl Jaspers** 1883: Existence and paradoxes.

►**Sartre Jean-Paul** (1905-1980): an absolute freedom.

►**Merleau-Ponty Maurice** (1908-1961),

► **Gabriel Marcel** (1889 -): the problem and the mystery, it to be and the mystery, to have it and to be it, the method of meditation, engagement and fidelity, against the intellectualist analysis.

►**Levinas Emmanuel** (born in 1905) and **Martin Buber** (born in 1878):

Philosophy of the relation or the meeting: I You, You Us.

▶**Under the influence of Aristote,**

▶ **Nicolaï Hartmann** (1882-1950). Spheres to be it.

▶**Under the influence of Saint Thomas d' Aquin: ? Ja C ques Maritain,** 1882: an integral humanism.

AND, AFTER

Considerations on the Panorama of the philosophers

By considering the philosophers by affiliation of nationalities, the Western philosophy borne fruit starting from the Greek and Roman heritage, it is possible to see units which make distinctive characters of each nationality.

For the 17 [E] 18 [E] centuryis is French: Rene Descartes, Blaise Pascal, Malebranche Nicolas; **L es19 [E] -20 [E]**: Auguste Comte; Pierre Teilhard de Chardin; Bergson Henri; Cournot Antoine; **The 20 [E]:** Jean-Paul Sartre; Merleau-Ponty Maurice; Blondel Maurice; Gabriel Marcel; Levinas Emmanuel; Jacques Maritain.

Consistency is *a spiritualistic rationalism, opened with subjectivity, report/ratio on the intimate, but so transcendent subject.*

For 17 E - 18 E - 19 E -20 E centuries German: Leibniz Gottfried Wilhelm; Wolf Christian; Emmanuel K ant; Schelling Fichte; Hegel Georg Wilhelm Friedrich; Karl Marx; Schopenhauer Arthur; Nietzsche Friedrich; Edmund Husserl; Martin Heidegger.

Consistency is   *a romantic rationalism, an anti intellectualism, concerning the intensity of interiority, report/ratio on the subject.*

For the S 17 E -18 E English centuries: Francis Bacon; Thomas Hobbes John Locke; Berkeley; David Hume; Charles Darwin; Spencer Herbert.

Consistency is a report/ratio with the experiment, an objectifying empiricism, report/ratio with the external object.

For the 19-20 E England and Austria: Karl Popper; Russel Bertrand; Wittgenstein.

Consistency: logical positivism, like logic of verifiability.

For the 19 E American: James William John Dewey.

Consistency is a pragmatism, in the reports/ratios of the thought to the action.

END

1. Ethical Dilemmas

Definition:

An **ethical dilemma** arises when a person must choose between two or more conflicting moral obligations, and obeying one would result in violating the other.

Key Philosophical Approaches:

- **Deontological Ethics (Immanuel Kant):**
  Actions are morally right based on duty, not consequences. You must act according to a moral rule (categorical imperative), even if the outcome is bad.
  Example: Always tell the truth, even if it harms someone.
- **Utilitarianism (Jeremy Bentham & John Stuart Mill):**
  The morally right action is the one that produces the greatest happiness for the greatest number.
  Example: A judge punishes an innocent person to prevent riots — utilitarianism might justify it.
- **Virtue Ethics (Aristotle):**
  Focuses on the character of the person, not specific actions. A virtuous person acts in a way that reflects moral excellence.

Legal Application:

Lawyers, judges, and lawmakers often face ethical dilemmas where legal rules conflict with moral intuitions.

2. Epistemology

Definition:

Epistemology is the **theory of knowledge**—how we know things, how we justify beliefs, and what counts as truth.

Major Philosophers:

- **Plato:**
  Defined knowledge as "justified true belief." Knowledge must be supported by reason and truth.

- **René Descartes:**
  Used skepticism to seek certain knowledge. Famous for *"Cogito, ergo sum"* ("I think, therefore I am").
- **David Hume:**
  Argued that human knowledge is based on experience, but we can never be certain about the future (problem of induction).
- **Karl Popper:**
  Scientific knowledge is not about verification but falsifiability. A theory is scientific if it can be proven wrong.

Legal Relevance:

- **Evidence law** relies on epistemology: How do we *know* a defendant is guilty?
- **Testimony, forensic proof, and expert opinions** are all evaluated through epistemic standards.

3. Essence, Existence, and Relation

Definitions:

- **Essence** = The necessary characteristics that make a thing what it is.
- **Existence** = The state of actually being in the real world.
- **Relation** = How entities are connected to each other.

Key Philosophers:

- **Aristotle:**
  Distinguished between essence (*what something is*) and existence (*that it is*). The essence of a law might be justice, while its existence is in codes or customs.
- **Thomas Aquinas:**
  Combined Aristotle with Christian theology. Said God's essence is His existence; all other things have essence and then existence.
- **Jean-Paul Sartre (Existentialism):**
  Reversed the idea: **"Existence precedes essence."** Humans first exist, and then define themselves — this idea can be applied to how laws evolve from human will.

- **Hegel:**
  Emphasized the **relation** between ideas, society, and spirit (Geist). Law develops through dialectical processes—thesis, antithesis, synthesis.

Legal Application:

- What is the **essence** of justice?
- Does a law **exist** if it is written but not enforced?
- What is the **relation** between law and morality?

4. Values and the Origin of Law

A. Values

- **Plato:** Justice is harmony between the parts of the soul and society.
- **Aristotle:** Law must reflect **virtue** and the goal of human flourishing (*eudaimonia*).
- **John Rawls:** Justice is fairness. Introduced the **"veil of ignorance"** to show how fair laws are those chosen without knowing one's position in society.

B. Origin of Law – Key Theories

1. **Natural Law Theory**
   - **Cicero:** Law comes from nature and reason.
   - **Thomas Aquinas:** Law is based on divine order and human reason.
   - **Lon Fuller:** Law must follow an inner morality (clarity, consistency, generality).
2. **Legal Positivism**
   - **John Austin:** Law is the command of the sovereign backed by sanctions.
   - **H.L.A. Hart:** Law is a system of rules (primary and secondary rules). The "rule of recognition" determines what counts as law.
3. **Historical School**
   - **Friedrich Carl von Savigny:** Law is a product of the spirit (*Volksgeist*) of the people. It develops with culture and traditions.
4. **Sociological Jurisprudence**
   - **Eugen Ehrlich:** The "living law" comes from society, not just statutes.
   - **Roscoe Pound:** Law must be a tool of social engineering.
5. **Critical Legal Studies / Realism**

- o **Oliver Wendell Holmes Jr.:** "The life of the law has not been logic; it has been experience."
- o **Duncan Kennedy:** Law reflects political and social power structures.

Summary Table:

Concept	Key Thinkers	Legal Relevance
Ethical Dilemmas	Kant, Mill, Aristotle	Conflict between legal duty and morality
Epistemology	Plato, Descartes, Hume, Popper	What counts as proof or truth in law
Essence & Existence	Aristotle, Aquinas, Sartre, Hegel	What is law? Does a non-enforced law truly exist?
Values & Origin of Law	Aquinas, Hart, Savigny, Ehrlich, Rawls	Foundations of legal systems and their connection to morals

What is the Dialectic Method?

The **Dialectic Method** is a **form of dialogue or reasoning** where two or more people (or ideas) discuss opposing views to discover the truth or reach a higher understanding.

🔁 Basic Idea:

It's like a structured debate — a back-and-forth of **thesis**, **antithesis**, and **synthesis**.

🏛 Historical Development of the Dialectic Method

1. Socrates – Socratic Dialectic

- **Method:** Asking and answering questions to expose contradictions in thinking.
- **Goal:** To refine beliefs and arrive at clearer truths.
- **Example:** In Plato's dialogues, Socrates would question others to show they didn't understand concepts like justice or courage as well as they thought.

2. Plato – Dialectic as the Path to Truth

- **Belief:** Dialectic is the highest method of philosophical reasoning.
- **Method:** Moving from beliefs (opinions) to true knowledge by logical argument.
- **Example:** Using reason to move from the visible world (appearances) to the world of Forms (true reality).

3. Aristotle – Logical Dialectic

- Developed **formal logic** (syllogisms) and also used dialectics in rhetoric and ethics.
- Saw it as a way of testing ideas by confronting **contrary positions**.

4. Hegel – Dialectical Idealism

- Introduced the famous **thesis-antithesis-synthesis** pattern (though he didn't use these exact terms).
    - **Thesis:** an idea or starting point (e.g., Freedom)
    - **Antithesis:** the opposite or contradiction (e.g., Oppression)
    - **Synthesis:** a new, higher idea combining the two (e.g., Legal Equality)
- For Hegel, dialectic is how **history, society, and law evolve** — through **conflict and resolution**.

5. Marx – Dialectical Materialism

- Adapted Hegel's method to economics and politics.
- Believed history advances through **class struggle**:
    - Bourgeoisie (owners) vs. Proletariat (workers)
    - Leads to revolution → new social system

⚖️ Legal Relevance of Dialectics

- **Legal Reasoning:** Lawyers and judges often use dialectical methods to weigh **opposing arguments**, resolve contradictions in law, and interpret statutes.
- **Court Debates:** The adversarial system (defense vs prosecution) is dialectical — arguments clash to reach the truth.

- **Jurisprudence:** Legal scholars use dialectics to compare different theories of law (e.g., Natural Law vs Legal Positivism).

💬 Example of Dialectic in Law:

Thesis: Law must be strictly applied (legal positivism).
Antithesis: Law must reflect morality and justice (natural law).
Synthesis: A balanced legal system where laws are valid only if they meet both procedural and moral standards.

⬚ Summary

Element	Description
Socratic Dialectic	Questions to reveal contradictions and refine beliefs
Platonic Dialectic	Moving from opinion to truth through structured dialogue
Hegelian Dialectic	Reality advances through thesis → antithesis → synthesis
Marxist Dialectic	Class struggle drives historical change (economic/political focus)
Legal Use	Weighing opposing views to interpret law and seek justice

1. Refutation (Latin: *refutatio*, Greek: *elenchus*)

Meaning:

Refutation means **proving that a statement or belief is false or mistaken**, usually by exposing contradictions.

In Socratic Method:

- Socrates uses **refutation** to challenge his dialogue partner's assumptions.
- He doesn't always give answers—he shows the flaws in others' beliefs to make them think more deeply.

Example:

If someone says, "Justice is helping your friends and harming your enemies," Socrates might refute this by asking:

Is it just to harm anyone, even an enemy?
Can justice involve doing harm?

Eventually, the person realizes the definition is flawed.

2. Maieutics (from Greek *maieutikos,* meaning "midwifery")

Meaning:

Maieutics is the "**midwife method**" of Socratic teaching: helping someone **give birth to knowledge** they already have inside them.

Socrates' Role:

- Like a midwife helps deliver babies, Socrates helps others "deliver" ideas.
- He believed that truth is already in the soul—we just need the right questions to bring it out.

In Practice:

Socrates does not teach by giving answers, but by asking the **right questions** to help a person discover truth for themselves.

3. Aporia (Greek: *ἀπορία* = perplexity, puzzlement)

Meaning:

Aporia means a state of **confusion, doubt, or being stuck**—not knowing what to believe anymore.

Why It Matters:

- It often comes after refutation.

- Socrates leads people to **aporia** to show them that their previous beliefs were unfounded.
- It's the **first step toward real knowledge**.

Example:

After being questioned by Socrates, someone might say:

"Now I'm completely confused. I thought I knew what justice was, but now I'm not so sure."

This state is good—it opens the door to deeper understanding.

🔄 **How They All Work Together in Socratic Dialogue:**

1. **You think you know something.**
2. Socrates questions you → **Refutation**: your idea has contradictions.
3. You feel **Aporia**: you're confused and no longer certain.
4. Socrates helps you through **Maieutics**: you reflect and begin to see the truth for yourself.

📖 **Summary Table**

Term	Meaning	Role in Philosophy
Refutation	Disproving a belief or argument	Shows the weaknesses in one's assumptions
Maieutics	Helping someone discover knowledge	Socratic "midwifery" method of learning
Aporia	Intellectual confusion or doubt	A productive stage before true understanding

Dialogue: "What is Justice?"

Socrates (S):
Tell me, my friend, what is justice?

Student (T):
Justice is giving each person what they deserve.

S:
Interesting. And do criminals deserve punishment?

T:
Yes, they do.

S:
And friends deserve help, while enemies deserve harm?

T:
Yes, that's right.

S:
So justice is harming your enemies?

T:
Yes, if they deserve it.

S:
But tell me—can a just person do harm to anyone?

T:
Yes, if it is deserved.

S:
And when we harm someone, do we make them better or worse?

T:
Worse, I suppose.

S:
Then harming someone makes them more unjust?

T:
That seems true.

S:
So, by doing harm, we make people more unjust. But if justice makes people better, not worse, then harming others— even enemies—cannot be justice. Would you agree?

T:

...I'm not sure anymore. That seems to contradict what I said earlier.

*(☞ This is **Refutation** — Socrates exposes contradiction in the student's belief.)*

S:

It appears we've reached a dead end, doesn't it?

T:

Yes... I'm confused. I thought I understood justice, but now I don't know what it is at all.

*(☞ This is **Aporia** — the student is in a state of perplexity.)*

S:

Good! Now that we have cleared away the false idea, let's examine together: could justice be something more than giving what is "deserved"? Could it be about doing good, even to those who wrong us?

T:

Perhaps... maybe justice is acting in a way that improves others, not harms them?

S:

Now you are thinking! You had the answer inside you—you only needed the right questions to draw it out.

*(☞ This is **Maieutics** — helping the student "give birth" to a better understanding.)*

Correction of Exam 2021

SECTION I

1. Philosophy is the love of wisdom. Explain this statement.

The word *philosophy* comes from the Greek words *philo* (love) and *sophia* (wisdom). Therefore, philosophy literally means "love of wisdom." This expression reflects the original aim of philosophers: to seek knowledge, truth, and understanding about existence, morality, society, law, and the universe.

To love wisdom means:

- **Asking deep questions** (e.g., What is justice? What is real? What is the good life?)
- **Reflecting critically** on beliefs and assumptions.
- **Pursuing knowledge** not for profit or power, but for **truth and meaning**.

Philosophers do not just accept things as they are; they **challenge opinions**, question traditions, and analyze the world to understand **underlying principles**. Thus, philosophy is not merely knowing facts but developing **wisdom**—the ability to apply knowledge thoughtfully and ethically.

2. Distinguish these philosophical doctrines:

a) Idealism vs. Positivism

Aspect	Idealism	Positivism
View of Reality	Reality is fundamentally **mental or spiritual**. The material world depends on the mind.	Reality is only what can be **observed and scientifically measured**.
Source of Knowledge	Knowledge comes from **ideas**, reason, and the **mind**.	Knowledge comes from **sense experience**, observation, and experiments.
On Truth	Truth is discovered through **rational reflection** or **spiritual insight**.	Truth is only valid if it is **empirically verified**.
On Law or Society	Emphasizes **ideals** and **moral values** behind laws.	Focuses on **facts**, legal rules, and avoids metaphysical speculation.

b) Representatives

- **Idealism**:
    1. Plato
    2. George Berkeley
- **Positivism**:
    1. Auguste Comte
    2. John Stuart Mill

3. a) Legal Naturalism and Legal Positivism

Legal Naturalism (Natural Law Theory):

- Claims that **law is rooted in morality and nature**.
- Laws must conform to **moral standards** to be valid.
- A bad or unjust law is **not a true law** (*lex iniusta non est lex*).
- Law and ethics are **connected**.

Legal Positivism:

- Argues that **law is a set of rules** created by humans, especially the sovereign or legislature.
- A law is valid **because it was made according to proper procedure**, not because it is moral.
- **Separates law and morality**.

b) Representatives

- **Legal Naturalism**:
    1. Thomas Aquinas
    2. John Finnis
- **Legal Positivism**:
    1. Jeremy Bentham
    2. H.L.A. Hart

4. Explain, by using one example, the correct categorical syllogism.

A **categorical syllogism** is a logical argument with:

- **Three statements**: a major premise, a minor premise, and a conclusion.
- Follows strict logical structure using categories or classes.

Example:

Major premise: All humans are mortal.
Minor premise: Socrates is a human.
Conclusion: Therefore, Socrates is mortal.

This is a **valid syllogism** because:

- It follows correct form.
- The conclusion logically follows from the premises.

SECTION II

1. A) René Descartes is a rationalist whereas David Hume is an empiricist. Explain.

- **René Descartes (Rationalist)**:
  - Believed that **reason** is the primary source of knowledge.
  - Famous for: *"Cogito, ergo sum"* (I think, therefore I am).
  - Claimed that knowledge starts from **innate ideas** and logical deduction.
- **David Hume (Empiricist)**:
  - Argued that **experience** and **sense perception** are the only sources of knowledge.
  - Denied the existence of innate ideas.
  - Claimed we cannot know things beyond our **direct experiences**.

So, Descartes trusted the **mind**, Hume trusted the **senses**.

1. B) What is archè in pre-Socratic philosophy?

- *Archè* (ἀρχή) is a Greek term meaning **"beginning"** or **"first principle."**
- Pre-Socratic philosophers used it to refer to the **fundamental substance or force** from which everything originates.

Examples:

- **Thales**: Archè is **water** (everything comes from water).
- **Anaximenes**: Archè is **air**.
- **Heraclitus**: Archè is **fire** and change.
- **Anaximander**: Archè is **"the boundless" (Apeiron)**—an undefined infinite source.

This shows the **beginning of scientific thinking**: searching for one principle behind nature.

2. A) Explain Thomas Aquinas's legal doctrine about justice.

Thomas Aquinas defined **justice** as giving each person **what they are due** (*suum cuique tribuere*). In his legal theory:

- Justice is a **cardinal virtue** necessary for social harmony.
- Laws must be based on **natural law** and **reason**.
- A **just law** is:
  1. Made for the common good.
  2. Made by a legitimate authority.
  3. Promulgated (publicly known).

For Aquinas, if a law is **unjust**, it is not a real law and **does not bind morally**.

2. B) Explain Hobbes's social contract theory.

Thomas Hobbes (1588–1679) believed that:

- In a **state of nature**, humans are in constant conflict — life is "*solitary, poor, nasty, brutish, and short.*"
- To escape this, people agree to form a **social contract**:
  - They **give up their rights** to a sovereign (a ruler or government).
  - The sovereign has **absolute power** to maintain peace and order.
- This creates the **Leviathan** — a powerful state that protects people from chaos.