

## Edinburgh Spring Programme in Legal Theory 2010

Workshop Series

Monday 31 May 2010

14:00 - 18:00



The Raeburn Room  
University of Edinburgh  
Old College  
South Bridge  
Edinburgh EH8 9YL  
UK

### ***The Axiomatic Construction of a General Theory of Law: discussing Luigi Ferrajoli's 'Principia Iuris'.***

Organiser: [Paolo Sandro](#)

The first part of the workshop title draws on a 1965 essay by P. N. Lebedev on *Kibernetika*, named *The question of the axiomatic construction of a system of law*, in which he stated: 'It is known that the necessary condition for the investigation of the material world is a high degree of maturity of the corresponding abstract theories. Can such theories be observed in jurisprudence? It appears that the answer to this question is positive. Juridical science includes sections sufficiently abstract and well developed for attempts to construct them deductively (axiomatically) to lead to positive results. In the theory of knowledge it is customary to understand an axiomatic method of constructing a theory to mean a construct in which a series of propositions in a given field of science are accepted without proof, and all the remaining knowledge is deduced from these propositions (axioms) by previously fixed logical rules or laws. The application of the axiomatic method in the theory of law can, it seems, scarcely go further than the axiomatic construction of separate sections of it. It appears to us that it would be useful, in the first place, to generalize this method in a section of legal theory such as the study of the system of law.'

More or less at the same time in which Lebedev stated so, Luigi Ferrajoli, under the initial supervision of Norberto Bobbio, began to work on his own axiomatic theory of law. It took him more than 40 years to complete it, finally materialising as the three volumes of *Principia Iuris. Theory of law and democracy*, that were published in September 2007. It is worth focusing on and discussing thoroughly this work both from a methodological perspective and from the contents point of view.

In the former, as Lebedev himself reminds us in his paper, 'in speaking of the possibility of the axiomatic construction of a system of law, it is necessary to remember attempts undertaken in the past to axiomatize an entire field of knowledge—ethics (Spinoza) and political economy (Rodbertus). These attempts were unsuccessful.' Thus Ferrajoli's lifetime work is of such great interest for two main theoretical (and methodological) reasons: firstly, because it is indeed the very first successful attempt to axiomatise an entire field of knowledge; and secondly, because it is not, as Lebedev suggested, only the axiomatisation of a specific system of law, but an entire [general] theory of law. Moreover, from the specific formal logic point of view, Ferrajoli's axiomatic theory of law is, to its credit, both complete and consistent: and that would be, considering Kurt Gödel's Incompleteness Theorems by which if the computable axiomatic system is consistent it cannot be complete and the consistency of the axioms cannot be proved within the system, an outstanding achievement in empirical sciences progress.

In the latter, the theoretical and empirical fruitfulness of Ferrajoli's work endures beyond the formal theory of law, and this is evident even from a very first survey of the second volume: in this sense, it can be said that constitutional democracies are complex political systems, based on the limits and legal restrictions imposed on all powers, both public

and private, state and supranational, which safeguard peace and fundamental human rights. Although the theory of constitutional democracy that is in *Principia Iuris* is not built up by the axiomatic method, this does not mean it is any less important: on the contrary, as Ferrajoli himself states in the introduction to his first volume, theory of constitutional democracy is strictly based on, though not derived from, the axiomatic theory of law. In other words, the axiomatic theory of law developed in the first volume redefines the democracy regulatory paradigm in the second volume, analyses the growing gap between its principles and practices, and illustrates the techniques and institutions able to overcome or at least to curb the inefficiencies of the former and the illegitimacy of the latter. In contrast with the current crisis of legal and political law, it proposes a rigorous reconstruction of the entire juridical language, which relies, as aforesaid, on the unprecedented use of the axiomatic method. The result is a powerful tool for conceptual clarification and simplification, critical analysis, theoretical invention and political and institutional planning.

The main aim of the workshop is therefore to acknowledge the great fruitfulness of an axiomatic theory of law, both from a normative (and theoretical) and from a descriptive (and empirical) point of view. In order to do so, it will be discussed how such a theory of law can be built up and, moreover, why this methodological option can be so relevant and successful in the legal thinking. Hopefully this will generate interest and future research in and within this unique approach to legal theory, providing the proper environment for intellectual interaction between scholars from UK universities and abroad.

### Speakers:

Paolo Sandro (University of Edinburgh), *Introduction*

#### First Panel, Theory of Law

Pierluigi Chiassoni (Università di Genova), *Between Legal Positivism and Constitutionalism: Ferrajoli's Way*

Carlo Dalla Pozza (Università del Salento), *The axiomatic method in 'Principia Iuris'* TBC

Giovanni Damele (Universidade Nova de Lisboa), *Logic and ideology in Luigi Ferrajoli's 'Principia Iuris'*

Giovan Battista Ratti (Universitat de Girona), *Ferrajoli's Juridical Logic*

#### Second Panel, Theory of Democracy

Richard Bellamy (University College London), *'Principia Iuris' and the question of international democracy*

Dario Castiglione (University of Exeter) (TBC), *Formal and substantive democracy in 'Principia Iuris'*

### CALL FOR PAPERS

Papers from Ph.D. students and early-career academics are warmly invited for this workshop. However, given time limits and the number of speakers, only outstanding works will be considered for participation in the workshop. Please submit a paper abstract (maximum 500 words) together with a CV and full contact details by 15th April 2010 to [p.sandro@sms.ed.ac.uk](mailto:p.sandro@sms.ed.ac.uk) . Accepted participants are then expected to submit their paper (max. 7000 words) for dissemination to workshop participants by the 15th of May 2010 and to deliver a 15-minute presentation at the event in May.

Event website: <http://www.law.ed.ac.uk/legaltheory/springprogrammeinlegaltheory2010.aspx>