Advanced Master in Legal Sciences 2015-2016

Course: **Global Law, Justice and Democracy**	**Term: 2**
	Number of Credits: 4
	Language: English

Instructor: José Luis Martí

Office hours: By appointment, on Wednesdays, 3-4pm, and Thursdays, 4-5pm.
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Course Description

This course offers a multidisciplinary introduction to the main challenges that law, justice and democracy face in a globalized world. In this sense, this is a course on global politics as well as on global law. It combines the perspectives of political philosophy, legal philosophy, constitutional theory, international relations, and international law theory. But its main approach is theoretical and philosophical.

It starts studying the current global trends and transformations, such as globalization and the digital revolution, and the way they affect our traditional understanding of state's sovereignty and the international order.

It continues with an introduction to four contemporary theories of justice – utilitarianism, egalitarianism, libertarianism and republicanism-, exploring how they could be extended to the global sphere. And it also engages in the existing debate for and against global justice.

The course shifts then to the legitimacy of international institutions and to the different models of global order. And it ends with a discussion of the new paradigms of global law and global constitutionalism.

Prerequisites

None.

Methodology

Methodology: This course has an intense reading load. Students will be expected to read all the assigned texts before each class period. The instructor will start the class with a presentation, but only with the aim of generating class discussions. Students are expected to spend about 6 hours per week in reading these materials and preparing the class. This will be complemented by a workload of about 20 hours to prepare the final assignments.

Competences and skills: Throughout the course, students are expected to acquire advanced specific knowledge about global law, international justice, the legitimacy of the international order, and global law and global constitutionalism. They are expected also to develop their critical skills to analyze the present situation and identify instances of injustice or illegitimacy. They are also expected to become familiar with the sources of international legal scholarship and international political thought.

Attendance policy: students are expected to attend at least 10 of the 12 class periods. Those who fail to meet this requirement will be penalized in their final grade.

Assignments and Evaluation

The evaluation of the course will be based on the following assignments:

(1) **Attendance and participation in class discussions**: 10% of the final grade
   Classes are supposed to be participatory. And students are required to engage in discussions and participative actively.

(2) **5 discussion notes** (1,000 words): 30% of the final grade
   Each student will have to choose 5 texts among the assigned readings and write a critical piece on them of about 1,000 words each.

(3) **Policy or research paper** (3,000-5,000 words): 40% of the final grade
   Each student will be required to write a policy paper or a research paper as a final essay.

(4) **Video-presentation**: 20% of the final grade
   Each student will have to record a video-presentation with a defence of his/her policy or research paper, trying to be innovative, creative, and effective.

Schedule and Work Plan

SESSION 1: Thursday 07.01.16 (14-16h)

Introduction to political philosophy: law, justice and legitimacy

1. Morality, political morality, and the law
2. The concept of justice
3. The concept of political legitimacy
4. Moral skepticism and relativism
5. Global law and global politics

Readings assigned:

• Sandel, Michael, *Justice. What's the Right Thing to Do?*, New York: Farrar, Strauss and Giraux, 2009: chapter 1.

SESSION 2: Thursday 14.01.16 (14-16h)

The new scenario: a globalized and digital world

1. Globalization and new global political challenges
2. The information revolution
3. The power of networks
4. Getting complex and collaborative
5. New challenges for international law and international relations

Readings assigned:
• Held, David and Anthony McGrew, "The Great Globalization Debate: An Introduction", in Held, David and Anthony McGrew (eds), The Global Transformations Reader, London: Polity Press, 2003, pp. 8-14 and 32-42.
• Benkler, Yochai, The Wealth of Networks: How Social Production Transforms Markets and Freedom, New Have: Yale University Press, 2006: ch. 1, pp. 1-28.
• Rheingold, Howard, Net Smart. How to Thrive Online, Cambridge (Mass.): MIT Press, 2012, pp. 1-3, 12-26, 147-190, and excerpts from ch. 5, pp. 191-202.

SESSION 3: Wednesday 20.01.16 (16-18h)

State's sovereignty and international order

1. The concept of state sovereignty
2. Westphalian order and the evolution of sovereignty
3. Global governance
4. Rodrik's trilemma
5. The global democracy dilemma

Readings assigned:
• Strange, Susan, "The Declining Authority of States" and "Pinocchio's Problem and Other Conclusions", from The Retreat of the State, Cambridge: Cambridge University Press, 1996, chs. 1 and 13, pp. 3-15, and 183-199.
• Alvarez, José E., "State Sovereignty is Not Withering Away: A Few Lessons For the Future", in Antonio Cassese (ed.), Realizing Utopia, OUP, 2012, pp. 26-37.
• Ku, Charlotte, "Taking Stock. Global Governance in a post-Westphalian Order", in International Law, International Relations and Global Governance, London: Routledge, 2012, pp. 158-184.
• Rosenau, James, *The Study of World Politics*, vol. 2, London, Routledge, 2006, chs. 5, 13 and 14: pp. 31-45, and 111-146.

SESSION 4: Thursday 28.01.16 (14-16h)

Theories of justice: utilitarianism

1. Introduction to utilitarianism
2. Types of utilitarianism: Hedonism, preference utilitarianism, act-utilitarianism, rule-utilitarianism
3. Objections
4. Utilitarianism in a global world

Discussion topic: is it torture justified under some circumstances?

Readings assigned:
• Sandel, Michael, *Justice. What's the Right Thing to Do?*, New York: Farrar, Strauss and Giraux, 2009: chapter 2.
• Watch this video: https://www.youtube.com/watch?v=7FR-FuhN2HM

Complementary reading:
• Walter Sinnot-Armstrong, "Consequentialism", *Stanford Encyclopedia of Philosophy*, accessible at http://plato.stanford.edu/entries/consequentialism/

SESSION 5: Wednesday 03.02.16 (16-18h)

Theories of justice II: egalitarianism

1. Kantian ethics and human rights: basic human dignity
2. Liberal Egalitarianism: John Rawls' *A Theory of Justice*
3. Objections
4. Liberal egalitarianism in a global world

Readings assigned:
• Sandel, Michael, *Justice. What's the Right Thing to Do?*, New York: Farrar, Strauss and Giraux, 2009: chapters 5 and 6.
• Henry Richardson, "John Rawls", *Internet Encyclopedia of Philosophy,* section 2, accessible at http://www.iep.utm.edu/rawls/

SESSION 6: Thursday 11.02.16 (14-16h)

Theories of justice III: libertarianism

1. Right-wing liberalism and conservatism: historical background
2. Robert Nozick's libertarianism
3. Objections
4. Libertarian cosmopolitanism

Readings assigned:
• Sandel, Michael, *Justice. What's the Right Thing to Do?*, New York: Farrar, Strauss and Giraux, 2009: chapters 3 and 4.

SESSION 7: Wednesday 17.02.16 (16-18h)

Theories of justice IV: republicanism

1. Introduction: the republican historical tradition
2. Freedom as non-domination, equal status and civic virtues
3. Republican justice and republican democracy
4. Objections
5. Transnational domination and republican self-government

Readings assigned:
• Philip Pettit, "Civic Republican Theory", in José Luis Martí and Philip Pettit, *A Political Philosophy in Public Life*, Princeton: Princeton University Press, 2010.

SESSION 8: Thursday 25.02.16

Global justice: world poverty and global inequalities

1. Introduction: the new historical background in a globalized world
2. Domestic justice vs. cosmopolitan justice
3. An international difference principle: Charles Beitz
4. John Rawls and the Law of Peoples
5. Thomas Pogge and poverty
6. Human rights and international courts

Readings assigned:
• Risse, Mathias, *Global Political Philosophy*, Basingstoke, Palgrave Macmillan, 2012: ch. 4, pp. 88-118.
• Blake, Michael, "International distributive justice", *Stanford Encyclopaedia of Philosophy*, accessible at: http://plato.stanford.edu/entries/international-justice/

SESSION 9: Wednesday 02.03.16 (16-18h)

The reaction against global justice

1. The institutionalist critique
2. The nationalist critique
3. The realist critique

Readings assigned:

• Miller, David, "Cosmopolitanism", in Brown, Garrett Wallace and David Held (eds), *The Cosmopolitanism Reader*, London: Polity Press, 2010, pp. 377-392.
• Kymlicka, Will, "Citizenship in an Era of Globalization", in Brown, Garrett Wallace and David Held (eds), *The Cosmopolitanism Reader*, London: Polity Press, 2010, pp. 435-444.
• Nagel, Thomas, "The problem of global justice", in Brown, Garrett Wallace and David Held (eds), *The Cosmopolitanism Reader*, London: Polity Press, 2010, pp. 393-412.

SESSION 10: Wednesday 09.03.16 (16-18h)

The legitimacy of international institutions

1. The concept of legitimacy
2. Traditional conceptions of political legitimacy
3. The Westphalian model of international legitimacy
4. A new complex standard of international legitimacy

Readings assigned:
• Klabbers, Jan, "International Institutions", in J. Crawford and M. Koskenniemi (eds), *The Cambridge Companion to International Law*, Cambridge: Cambridge University Press, 2012, pp. 228-244.
• Buchanan, Allen and Robert Keohane, "The Legitimacy of Global Governance Institutions", in A. Buchanan, *Human Rights, Legitimacy and the Use of Force*, Oxford UP, 2010, pp. 105-133.

SESSION 11: Wednesday 16.03.16 (16-18h)

Models of global order: democratic statism, transnational demoi-cracy, and global democracy

1. Is democracy possible at the international level? Robert Dahl's critique
2. Democratic statism: Pettit and Christiano
3. Transnational demoi-cracy: Besson, Buchanan, Bohman
4. Global democracy: Held, Archibugi, Pogge

Readings assigned:
• Dahl, Robert, "Can International Organizations be Democratic? A Skeptic's View", in Brown, Garrett Wallace and David Held (eds), The Cosmopolitanism Reader, London: Polity Press, 2010, pp. 423-434.
• Christiano, Thomas, TBD
• Archibugi, Daniele, "The Architecture of Cosmopolitan Democracy", in *The Global Commonwealth of Citizens*, Princeton: Princeton University Press, 2008, pp. 85-122.
• Martí, José Luis, "A global republic to prevent global domination", *Diacritica*, 24, 2, 2010.

SESSION 12: **Wednesday 30.03.15 (16h.)**

Global law, human rights, and global constitutionalism

1. The evolution of human rights
2. The idea of global law
3. International courts
4. Global constitutionalism

Readings assigned:
• "Human Rights", in the *Internet Encyclopedia of Philosophy*, accessible at http://www.iep.utm.edu/hum-rts/
• Domingo, Rafael, *The New Global Law*, Cambridge U.P., 2011, excerpts TBD.
• Peters, Anne, "Are We Moving Towards Constitutionalization of the World Community?", in Antonio Cassese (ed), *Realizing Utopia. The Future of International Law*, Oxford UP, 2012, pp. 118-135.
• Peters, Anne, "Global Constitutionalism", in Michael Gibbons (ed), *The Encyclopaedia of Political in Thought,* Wiley and Sons, 2015, pp. 1-4.
• Kumm, Matthias, "Constitutionalism and the Cosmopolitan State", manuscript.