

Advanced Master in Legal Sciences 2014-2015	
<b>Course:</b> <b>Models of Justice and Human Rights</b>	<b>Term: 2</b>
	<b>Number of Credits: 4</b>
	<b>Language: English</b>
<b>Instructor:</b> José Luis Martí	
<b>Office hours:</b> By appointment, on Monday, 5-6pm, and Thursday, 3-4pm. <b>Office number:</b> 40.0E26 <b>Email:</b> <a href="mailto:josepluis.marti@upf.edu">josepluis.marti@upf.edu</a>	

Course Description
<p>This course offers a brief introduction to contemporary theories of justice, political legitimacy and human rights. It is a multidisciplinary course that combines the perspectives of political philosophy, legal philosophy and constitutional theory, applied to human rights-related issues. The course analyzes contemporary problems and contemporary discussions, rather than reviewing the history of political ideas. And it focuses especially on global and international issues.</p> <p>It starts with the most recent philosophical discussion about the foundations of human rights. It continues with an introduction to the main theories of justice. Then it focuses on the recent discussion on global justice. And it ends with two discussions related to political legitimacy: the legitimacy of the judicial review of human rights, and the discussion about the legitimacy of global institutions.</p>

Prerequisites
None.

Methodology
<p>[This section should contain different parts:</p> <ol style="list-style-type: none"> <li>1) Brief description of the learning method to be used in the class: 1 paragraph. Please, make emphasis in the innovative methods to be used, if any. We encourage the instructors to avoid unidirectional pure-lecture-based classes, promote class discussions, and introduce some practical exercises.</li> <li>2) Capacities and skills that students will be expected to have acquired at the end.</li> <li>3) Attendance policy: establish what percentage of attendance to classes is required, if any. We recommend at least 80%, compatible with a greater flexibility in exceptional cases.</li> <li>4) Workload: mention the number of hours per week that every student is expected to spend in the preparation of the classes, and/or the completion of the assignments, and/or the preparation for the exam]</li> </ol>

Assignments and Evaluation
<p>The evaluation of the course will be based on the following assignments:</p> <ol style="list-style-type: none"> <li>(1) Attendance and participation in discussions at class: 10% of the final grade</li> <li>(2) Six 2-pages discussion notes: 30% of the final grade</li> <li>(3) Take-home exam: 30% of the final grade</li> </ol>

### Schedule and Work Plan

#### **SESSION 1: Monday 12.01.15**

##### **Introduction to political philosophy in the global scenario: justice, legitimacy and human rights**

1. Morality, political morality, and the law
2. The concept of justice
3. The concept of political legitimacy
4. The importance of human rights
5. Moral skepticism and relativism
6. The new scenario: global politics, justice and legitimacy

Readings assigned:

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

#### **SESSION 2: Monday 19.01.15**

##### **The foundations of human rights**

1. Introduction to human rights
2. Moral rights, legal rights, political rights
3. Philosophical justifications of human rights
4. Justice and human rights
5. Skepticism about human rights

Readings assigned:

- "Human Rights", in the *Internet Encyclopedia of Philosophy*, accessible at <http://www.iep.utm.edu/hum-rts/>

#### **SESSION 3: Thursday 22.01.15**

##### **Utilitarian justice**

1. Introduction to utilitarianism
2. Types of utilitarianism: Hedonism, preference utilitarianism, act-utilitarianism, rule-utilitarianism
3. Objections
4. Human rights and utilitarianism

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 Giroux, 2009: chapter 2.
- Watch this video: <https://www.youtube.com/watch?v=7FR-FuhN2HM>

Complementary reading:

- Walter Sinnott-Armstrong, "Consequentialism", *Stanford Encyclopedia of Philosophy*, accessible at <http://www.iep.utm.edu/rawls/>

#### **SESSION 4: Monday 26.01.15**

##### **Liberal egalitarianism: John Rawls' theory of justice**

1. Kantian ethics and human rights: basic human dignity
2. Liberal Egalitarianism: John Rawls' *A Theory of Justice*
3. Human rights and social rights
4. Objections

Readings assigned:

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

#### **SESSION 5: Monday 04.02.15**

##### **Libertarianism: the morality of free markets**

1. Right-wing liberalism and conservatism: historical background
2. Robert Nozick's libertarianism
3. The negative model of human rights
4. Objections

Readings assigned:

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

#### **SESSION 6: Thursday 07.02.15**

##### **The republican revival: freedom, democracy and domination**

1. Introduction: the republican historical tradition

2. Two types (and a half) of republicanism
3. The idea of freedom as non-domination
4. Deliberative democracy and republican self-government
5. Civic virtues
6. Republican human rights
7. Objections

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 7: Monday 09.02.15**

### **Constitutionalism, democracy and human rights**

1. The foundations of constitutionalism and judicial review
2. Strong constitutionalism and the countermajoritarian difficulty
3. Institutional design and the judicial state

Readings assigned:

- Ronald Dworkin, *Justice for Hedgehogs*, Cambridge (Mass.): Harvard University Press, 2010, caps. 15 y 18.
- Jeremy Waldron, "The Core of the Case Against Judicial Review", *Yale Law Journal*, 115, 2006.

Complementary readings:

- Victor Ferreres, "A Defense of Constitutional Rigidity", *Annali e Diritto*, 2000: 45-68.
- José Luis Martí, "Is Constitutional Rigidity the Problem? Democratic Legitimacy and the Last Word", *Ratio Juris*, forthcoming.

## **SESSION 8: Monday 16.02.15**

### **Global justice: world poverty, inequality and human rights**

1. Introduction: the new historical background in a globalized world
2. Domestic justice vs. cosmopolitan justice
3. An international difference principle: Challes 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 Encyclopedia of*

*Philosophy*, accessible at: <http://plato.stanford.edu/entries/international-justice/>

### **SESSION 9: Monday 23.03.15**

#### **Globalization, state sovereignty and human rights**

1. A global a technological world
2. The evolution of the global sphere
3. The concept of state sovereignty
4. Human rights in a global world

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.

### **SESSION 10: Monday 02.03.15**

#### **Cosmopolitanism and the statist reaction**

1. Moral and political cosmopolitanism
2. The nationalist view
3. The realist school of 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.
- 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.

### **SESSION 11: Monday 09.03.15**

#### **Global democracy**

1. Normative views of the global order: multilateralism, transnational democracy and global democracy
2. The ideal of global democracy
3. The current practice of global democracy

Readings assigned:

- Archibugi, Daniele, "The Architecture of Cosmopolitan Democracy", in *The Global Commonwealth of Citizens*, Princeton: Princeton University Press, 2008, pp. 85-122.

### **SESSION 12: Monday 16.03.15**

#### **The legitimacy of international institutions**

1. The concept of political legitimacy in the international context
2. Traditional theories of political legitimacy
3. The legitimacy of international institutions

Readings assigned:

- Buchanan, Allen and Robert Keohane, "The Legitimacy of Global Governance Institutions", *Ethics and International Affairs*, 20 (4), 2006.

### **Bibliography/List of readings and materials**

#### **Required Readings:**

The students are required to read the assigned readings mentioned in the last section for each session. Some of them correspond to several chapters of this book, that will be used as a textbook.

- Sandel, Michael, *Justice. What's the Right Thing to Do?*, New York: Farrar, Strauss and Giroux, 2009.

The reading of this book should be complemented with watching the 12 episodes of the Justice Harvard Program, freely accessible at: <http://www.justiceharvard.org/>

Electronic versions of the other required readings will be provided through the Campus Virtual.

#### **Complementary Readings:**

- Arnsperberger, Christian y Philippe Van Parijs, *Ética económica y social. Teorías de la sociedad justa*, Barcelona: Paidós, 2002.
- Brighouse, Harry, *Justice*, London: Polity, 2005.
- Fabre, Cecile, *Justice in a Changing World*, Polity Press, 2007.
- Gargarella, Roberto, *Las teorías de la justicia después de Rawls. Un breve manual de filosofía política*. Barcelona: Piados, 1999.
- Kymlicka, Will, *Contemporary Political Philosophy*. 2nd edition, Oxford University Press, 2001.

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