Course title: Law and Dictatorship
Language of instruction: English
Professor: Dr. Alfons Aragoneses
Professor's contact and office hours: 
Course contact hours: 45
Recommended credit: 3 US credits-5 ECTS credits
Course prerequisites: None
Language requirements: None
Course focus and approach: This is a course on comparative legal history. It approaches the evolution of legal culture in 19th and 20th Century in countries having experienced a dictatorial regime.

Course description: The “short twentieth century” (Hobsbawm) was not, as many expected it to be, the century of democracy and political liberalism. Far from it, many parts of Europe experienced totalitarianism and authoritarianism. Today we can find different books and documentaries about this phenomenon made by historians, political scientists and sociologists. If somebody is interested about the importance of law during totalitarian regimes, he or she will realize that legal scholars, especially in Spanish State, did not pay much attention to the legal systems of these dark periods. Legal systems described by liberalist theories worked as a barrier against totalitarianism. Nonetheless, law was also a relevant way to ensure social and economic control under dictatorships. Law was a tool of repression and social control but also for legitimizing political power.

This course will examine the evolution of law under dictatorships from a comparative point of view. Although the Spanish dictatorship (“Franquismo”) will be the centre of these lessons, we will also analyze other totalitarian experiences in Europe and Latin America.

This is a course of comparative legal and political history. However, we will also observe present and future developments. Although the time of dictatorship is (almost) finished authoritarianism is still alive. In many cases it may not show itself as the old fashion dictatorship but as a showroom democracy.

Finally, we will analyze the relationship between law and non-democratic forms of power in the present times.

Learning objectives:
At the end of this course the students:
Will be able to think critically, extract the legal elements of documents of different nature, be able to approach different legal cultures.
Course workload: Reading, active participation in class, debates.

Teaching methodology: Not only do books and statutes compose legal culture, other kinds of written and unwritten documents can also help us to analyze social and legal phenomena. During class sessions, we will discuss and work on texts, images and films. We will read legal and political texts and we will also compare them with historical or literary documents. This course will help students to understand (to) the legal and political transcendence of non-legal materials.

Assessment criteria:
1) Student’s homework (30%). There are three assignments (see Sessions).
2) Active participation during the lessons (10%).
3) Final Assignment. (20%) Students will write a final Assessment on one of the issues treated in the lessons.
4) Midterm exam (20%), about the issues treated in the lessons. Students are allowed to bring and consult written documents.
5) Final exam (20%), about the issues treated in the lessons. Students are allowed to bring and consult written documents.

Absence policy: After the add/drop day, all registrations are considered final and HESP Absence Policy begins to apply. For the academic year 2011-2012, such policy is as follows:

Attending class is mandatory and will be monitored daily by professors. Missing classes will impact on the student’s final grade as follows:

<table>
<thead>
<tr>
<th>Absences</th>
<th>Penalization</th>
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<tbody>
<tr>
<td>Up to two (2) absences</td>
<td>No penalization</td>
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<tr>
<td>Three (3) absences</td>
<td>1 point subtracted from final grade (on a 10 point scale)</td>
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<tr>
<td>Four (4) absences</td>
<td>2 points subtracted from final grade (on a 10 point scale)</td>
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<tr>
<td>Five (5) absences or more</td>
<td>The student receives an INCOMPLETE (&quot;NO PRESENTAT&quot;) for the course</td>
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The PEHE/HESP attendance policy does not distinguish between justified or unjustified absences. The student is deemed responsible to manage his/her absences.

Emergency situations (hospitalization, family emergency...) will be
analyzed on a case by case basis by the Academic Director of the HESP.

**Classroom norms:**
- Students will have a ten-minute break after one one-hour session

**Weekly schedule**

**Session 1: Law and dictatorship**
Introduction. Presentation of the course. Discussion about the remains of dictatorships in today’s Spain.
Document: “Between the dictator and me”, Film (2005).

**Session 2: A bit of European Legal History**

**Session 3: The difficult Spanish transition to the modernity**

**Session 4: Law as a tool of constructing and legitimating Power**
Documents: fragments of the Film: “Sin novedad en el Alcázar” (1942) and “The Triumph of the Will” (1935).

**Session 5: The foundation of Franquismo: Spanish Civil War**
From the “coup d’état” to the three-year long civil war. Was Spanish Civil War what we understand as a civil war? International intervention (International Brigades). The evolution of the republican side. The evolution of the nationalist side.

**Session 6: The economic and labour relations models in the European Dictatorships**
Session 7: Criminal Law and social control
Criminal Law under dictatorships. Germany. Law against law: the first criminal regulations of Franquismo. “Ley de responsabilidades políticas” (Regulation of political responsibilities); “Ley de represión de la masonería y el comunismo” (Regulations against Free Masonry and Communism”). The role played by religion.

Session 8: Deportation, Holocaust, Genocide. Political and legal aspects
Political background of the Holocaust. The racial question in Germany, Italy and Spain. National homogeneity and genocide. The Spanish republicans in German concentration Camps. The Concentration camp as a paradigm of the “Bio-politics”.

Session 9: First assignment: Homo sacer

Session 10: Private Law
The Republican revolution and the fascist counterrevolution in Private Law. Saint Thomas of Aquinas is back: the new conceptions of the individual, woman and family. The liberal individualistic contract law as natural Law.

Session 11: Midterm exam
Written essay about one of the issues treated in the lessons.

Session 12: Social and political changes in Spain
Society in transformation: tourism, migrations and social behaviours’ changes. The role of the political opposition during the Franquismo.

Session 13: The 60s in Spain. From charismatic power to technocracy

Session 14: Conference on “Law and dictatorship”. Guest Professor

Session 15: Assignment: Economic change under dictatorial rule
Document: Film: written essay about the political and legal contents of a film.
Session 16: Transitional periods from dictatorship to democracy

Session 17. Political and legal transition in Spain
From the 20th of November of 1975 to the 6th of December of 1978. The legal and political reforms prior to the Spanish Constitution. The Spirit of the “Transition” and Law.


Session 18: The struggle for democratic memory. The right to remember


Session 19: The Right for remembrance in Spain from the point of view of International Law
Conference by Professor Margalida Capellà, Professor of International Law of Universitat de les Illes Balears (?)

Session 20: Dictatorship in our post-modern times
Democracy and economical growth. The case of Chile International Justice and Human Rights. The international Criminal Court of Justice and the processes of consolidation of democracy.

Session 21: Assignment: Dictatorship is not beautiful: the rise of illiberal democracies and neo-authoritarianism
Democracy and human rights in current times. Election observation and illiberal democracies.


**Session 22: Final Exam**

Written essay about one of the issues treated in the lessons.

**Required readings:**

The Professor will upload selected texts from the recommended bibliography to be read every week.

**Recommended bibliography:**


