Course title: Law, Justice and Legitimacy

Language of instruction: English

Professor: José L. Martí

Professor’s contact and office hours: josepluis.marti@upf.edu; Office number: 40.0E26 (Roger de Lluria Building); office hours: Tuesdays and Thursdays, 4-5pm

Course contact hours: 45

Recommended credit: 3 US credits-6 ECTS credits

Course prerequisites: there are no prerequisites for this course

Language requirements: None

Course focus and approach: This is a multidisciplinary course that aims to integrate the perspectives of law, political philosophy, international relations, and political science. It is an introduction to some of the most relevant problems that both politics and the law (particularly, public law) are facing in the 21st century. It focuses on the structure, aims, and content of public law, and the main discussions about its justice and legitimacy. It is not an aim of this course, therefore, to provide a deep understanding of a particular issue concerning public law, but a general landscape of the many issues involved in the idea of the law itself, and in its acceptability from a normative point of view. It will emphasize the importance of the new global scenario and the current digital transformations.

Course description: The course is divided into four parts, and 22 class periods. The first part will be just introductory, but it is an attempt to introduce the student to the new scenario in which the law, politics, and justice are placed. This new scenario is characterized mainly by two distinct but interrelated phenomena that, together, are profoundly changing our societies: globalization and the digital revolution.
The second part consists of an introduction to law, to its functions, to the idea of a rule of law, to its sources, the main law traditions, and the law branches. It continues with an introduction to constitutional law and criminal law, as two main branches of public law. And it also introduces the discussions about democratic legitimacy and judicial review.

The third part focuses on justice and legitimacy. It focuses on the main contemporary theories of justice, such as utilitarianism, liberal egalitarianism, libertarianism, Communitarianism, Multiculturalism, Feminism, and Republicanism. And it includes a session on the idea of political legitimacy, and more concretely of democratic legitimacy.

The fourth and last part deals with global issues, and mainly with the application of what we have learned on law, justice and legitimacy to this new scenario. It embraces the main recent discussions about global justice, state sovereignty and global democracy.

**Learning objectives:** The general aim of the course is to provide pre-law students with a general understanding of the law, particularly public law, at the light of the major normative challenges it must face in the 21st century. Besides this, the course adopts the following concrete learning objectives:

- The students must acquire a general understanding of what the law is, what is its usual content, what is the main role for public law in particular, and what are the main challenges that it faces in the 21st century, particularly those derived from globalization and the digital transformations.
- The students must learn the fundamentals of public law, and especially the constitutional essentials.
- The students must achieve a general knowledge and understanding of the main normative issues involved in current constitutional democracies, concerning questions of justice and legitimacy.

**Course workload:** The students are expected to attend the class periods having read in advance the assigned readings indicated below. They are also expected
to engage and participate actively in the class’ discussions. Students will be required to make oral presentations of texts related to each period’s discussion topic, and will be asked to defend a position regarding such topic. Each student must do at least one oral presentation during the course. Students will also have to write 2-page discussion notes on five of the assigned readings that will be freely chosen by them, which will be due in different mid-term deadlines to be announced.

There will be no final exam. But students will be required to write and submit a final essay, in the form of a policy paper of around 4,000 words, on a topic related to any of the course’s contents. In this policy paper, the student will be asked to defend a proposal for the amendment of a concrete legislation or institution. A video-presentation with a defense of the policy paper will also be required. Both the paper and the video-presentation will be due on one week after the end of the classes. The exact date will be announced during the course.

**Teaching methodology:** The course is basically structured in class lectures, oral presentations, and discussions. Students will be asked to be active taking part in the class discussions. Critical and autonomous thinking will be encouraged and praised. And any opinion will be welcome. On the other hand, there is an important workload that students will have to develop off-class at their convenience. Advice and supervision for the study of the materials and the preparation of the oral presentations, but specially for the research and writing of the policy paper will be provided by the instructor during the whole course.

**Assessment criteria:**

Final assessment and grades will be distributed according to the following criteria:

- Class participation: 10%
- Discussion notes: 20%
- Oral presentation: 10%
- Final essay - policy paper: 40%
- Video-presentation: 20%
Absence policy

After the add/drop, all registrations are considered final and **LEGAL STUDIES PROGRAM Absence Policy** begins to apply. For the academic year 2015-2016, 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>
</tr>
<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>
</tr>
<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 Director of the Education Abroad Program.*

**Classroom norms:**

- Proper behavior in the classroom is required
- Students will have a ten-minute break during each hour session

**Weekly schedule:** The course is structured into 22 class periods of two hours each along 11 weeks, grouped into 4 parts. Every week there will be a general theme, a topic for discussion, and a list of required readings.
PART I: INTRODUCTION TO A NEW SCENARIO

Period 1: Introduction: Law, Justice and Legitimacy
(Tue, Jan 12th):

No readings assigned

Period 2: A New Global Scenario for Law and Politics
(Thu, Jan 14th)

Reading Assignments:

Topic for discussion: How is globalization changing our nation states?

Period 3: The Digital Revolution
(Tue, Jan 19th)

Reading Assignments:

Topic for discussion: Will the new technologies change dramatically the way in which we politically and legally organize our societies?

PART II: INTRODUCTION TO LAW
Period 4: The Law, Its Functions, and the Rule of Law  
(Thu, Jan 21st)

Reading assignments:  

Period 5: Legal Traditions, Sources of Law and Branches of the Law  
(Tue, Jan 26th)

Reading assignments:  

Topic for discussion: Should the rule of law be respected at any rate, even when the legal provisions to be enforced are unjust?

Period 6: Constitutionalism and Fundamental Rights  
(Thu, Jan 28th)

Reading assignments:  

Period 7: Legal Interpretation and Legal Indeterminacy  
(Tue, Feb 2nd)

Reading assignments:  

Topic for discussion: Does the American constitution prohibit death penalty? Isn’t it a cruel and unusual punishment?

Period 8: The Case for Constitutional Rigidity and Judicial Review  
(Thu, Feb 4th)
Reading assignments:

Period 9: The Democratic Objection to Strong Constitutionalism
(Tue, Feb 9th)


Topic for discussion: Would it be legitimate to be ruled by experts and technocrats? What is the limit, if any, of a technocratic government?

Further reading:

Period 10: Criminal Law and Theories of Punishment
(Thu, Feb 11th)

Reading assignments:

Topics for discussion: Are we criminalizing too much? Are we punishing too much?

Text for presentation:
Period 11: Paternalism, Perfectionism, and the Limits to State Intervention
(Tue, Feb 16th)

• Dworkin, Gerald, “Paternalism”, Stanford Encyclopedia of Philosophy:
  http://plato.stanford.edu/entries/paternalism/

Topic for discussion: Should we decriminalize drugs?

Text for presentation:
• Husak, Douglas, “Four Points About Drug Legalization”, Criminal Justice Ethics,

PART III: JUSTICE AND LEGITIMACY

Period 12: Theories of justice 1: Utilitarianism
(Thu, Feb 18th)

Reading assignments:
• Sandel on Torture: http://vimeo.com/52821463

Period 13: Theories of justice 2: Liberal Egalitarianism
(Tue, Feb 23rd)

Reading assignments:

Period 14: Theories of justice 3: Libertarianism
(Thu, Feb 25th)

Reading assignments:
• Sandel on markets: https://www.youtube.com/watch?v=UbBv2ZGC2VI


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**Topic for discussion:** Are there any limits to markets?

**Text for presentation:**

**Period 17: Theories of Justice 4: Communitarianism, Multiculturalism, Feminism, Republicanism**

*(Tue, Mar 8th)*

**Reading assignments:**

**Period 18: Democratic Legitimacy**

*(Thu, Mar 10th)*

**Reading assignments:**

**Text for presentation:**

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**PART IV: GLOBAL JUSTICE AND GLOBAL LEGITIMACY**

**Period 19: Global Justice: World Poverty and Global Inequalities**

*(Tue, Mar 15th)*

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Reading assignments:


Text presentation:

• Singer, Peter, *The Life You Can Save*, Random House, 2009, chaps. 1, 2 and 3, pp. 3-42.

**Period 20: The Defence of National Sovereignty and National Democracies**  
(Thu, Mar 17th)

Reading assignments:


**Period 21: Global Democracy**  
(Tue, Mar 22nd)

Group presentations:


Topic for discussion: Should we create a world parliament?

**Period 22: Policy Paper Presentations**  
(Thu, Mar 24th)
Other Recommended Bibliography: