Transitional justice and democratization

Academic Year: (2019 / 2020) **Review date: 09-01-2020**

Department assigned to the subject: International Law, Ecclesiastical Law and Philosophy of Law Department, Social

Coordinating teacher: DORADO PORRAS, JAVIER

Type: Electives ECTS Credits : 6.0

Year : Semester :

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

- Comparative Politics.
- Constitutional Organization of Government.
- Public International Law.
- Human Rights.
- Topics in International Politics.

OBJECTIVES

BASIC COMPETENCES

CB1. Be able to show that they possess and comprehend facts and contents in an area of study which, based on a previous general secondary school level, have been extended to those included in advanced textbooks and in some aspects proceed from the most advanced studies in this area.

CB2. Be able to show that they have learned how to apply their knowledge professionally to their future jobs or tasks and that they possess the competences needed to develop and defend arguments and solve problems in that area of study.

CB3. Be able to show that they are capable of collecting and interpreting the relevant data (normally within their area of study) needed for formulating judgments which require critical thought on social, scientific and ethical topics of relevance.

CB4. Be able to show that they are able to transmit information, ideas, problems and solutions both to specialized and non-specialized publics.

CB5. Be able to show that they have developed the learning skills required to perform further studies with a high degree of self-dependence.

GENERAL COMPETENCES

CG1. Understand social, political, legal and economic realities from a comparative perspective.

CG2. Be able to approximate and analyze the intrinsic values contained in equal opportunities, multi-cultural society, political ideological and cultural pluralism, human rights, and the international community.

CG5. Be able to debate and formulate critical reasoning, using precise terminology and specialized resources, when analyzing international and global phenomena, employing both the concepts and knowledge from different disciplines as well as the methods of analysis, paradigms and concepts pertaining to the Social Sciences.

CG6. Be able to apply scientific method to the economic, social and political questions of a global society; be able to formulate problems in this context, identify a possible explication or solution, and a method to contrast them by sensibly interpreting the data.

OVERLAPPING COMPETENCES

CT1. Acquire the capacity to communicate knowledge in oral and written form, both to specialized and to non-specialized publics.

CT2. Acquire the capacity to establish good interpersonal communication and to work both in interdisciplinary and international teams.

CT3. Acquire the capacity to organize and plan workloads, taking correct decisions based on the available information, collecting and interpreting relevant data in order to provide assessments in that area of study.

CT4. Develop the motivation and capacity to perform independent continuous learning for life, with an endowment to adapt to change and new situations.

SPECIFIC COMPETENCES

CE1. Be familiar with the principal political and social theories. Be capable of analyzing and comparing contemporary policies.

CE2. Be familiar with and understand the processes of political, social, economic and cultural change in society and contemporary policy.
CE3. Be familiar with the system of origins of Law.
CE4. Be familiar with public freedoms and fundamental rights in both Spanish and international legal codices.
CE5. Be familiar with the leading state models of territorial, political, economic and social organization.
CE7. Understand the main dynamics which generate inequality and its consequences, and comprehend the principles on which equal opportunity policies are based.
CE10. Be able to discern the differentiating elements in international problems in accordance to the development stages of a country.
CE11. Be able to critically relate present and past events and processes.
CE12. Be able to formulate and solve basic economic, social, political problems in an international context.
CE14. Be able to design and evaluate viable and sustainable political and socio-economic programs designed for social advancement.
CE16. Be able to carry out case studies and apply comparative method to analyze institutions, processes and policies in different countries.

LEARNING OUTCOMES
- Applied knowledge on the elements of the concept of transitional justice, its historical evolution and the international legal norms which each of them has been consecrated and consolidated.
- Applied knowledge that permits to identify the various legal, political, institutional and social aspects that interact in any process of transition to democracy.
- Applied knowledge for understanding the importance of transitional justice and the satisfaction of the rights of victims of severe human rights violations when conducting any process of transition to democracy.
- Applied knowledge for determining the viability and success of the different implemented public policies to meet the principles of transitional justice in a process of democratization.

DESCRIPTION OF CONTENTS: PROGRAMME

Lesson 1: Basic concepts and terminology for the course. Why do we speak of transitions instead of transformations? The inter-regnum between political regimes. Concepts and definitions of democracy.

Lesson 2: Types of dictatorship. State and regime in times of political change. The analytical distinction between State and regime.

Lesson 3: Types of transitions. Typologies and the debate on this theme. The connection with the degree of transitional justice achieved.

Lesson 4: What can go wrong in a transition to democracy? How can democratic consolidation be achieved?

Lesson 5: The principal political science theories: Moore, Dahl, Linz and Stepan, O'Donnell and Schmitter, Przeworski, Huntington, Shapiro.

Lesson 6: The evidence offered by recent empirical studies. Factors favorable to democratization and major causal determinants.

Lesson 7: The Spanish case in comparative perspective. The Spanish transition from the perspective of comparative political science.

Lesson 8: The philosophic and normative debate on transitional justice.

Lesson 9: The contents of transitional justice (I). Truth.

Lesson 10: The contents of transitional justice (II). Justice.

Lesson 11: The contents of transitional justice (III). Reparation.

Lesson 12: Legislation and regulations on transitional justice.

Lesson 13: Transitional justice, human rights and the consolidation of the rule of law.

Lesson 14: Transitional justice and historical memory. The Spanish case and the rights of the victims of Francoism.

LEARNING ACTIVITIES AND METHODOLOGY

- Lectures.
- Seminars.
- Elaboration of papers for students.
- Final examination.
- Weekly tutorials.

ASSESSMENT SYSTEM

Assesment System is a mixed one, combining continuous assessment and a final exam to be able to assess in a objective way the level of learning of the student along the term.
A) Continuous Assessment.-
Continuous assessment, along the term, will have a weight of 60% on the final mark. Each proffessor will determine, at the beginning of the course, the kind, content and assessment system of the tests that students will have to do throughout the course.
B) Final Exam (end-of-term exam).-
Date, time and place of the final exam will be will be posted online in the UC3M web page.
Final exam will have a weight of 40% on the final mark.
Level of comprehension, use of the different concepts involved in the cuestions and essays, and communication skills will be assessed in all the activies.
Independently of the percentages ascribed to continuous assessment and the final exam, the students have to get a minimum mark of 3 points in the final exam (being 10 points the maximum mark) to pass the course.
In the case of the extraordinary calling, final exam will have a weight of 100% on the final grade, except for those students that have carried out the continuous assessment when it is more favourable to them the attribution to the final exam of a weight of 40% of the final grade, adding the other 60% of the final grade with their grade on continuous assessment.

% end-of-term-examination:	40
% of continuous assessment (assigments, laboratory, practicals…):	60

BASIC BIBLIOGRAPHY

- Aguilar, P., Brito, A. and González, C. The Politics of Memory: Transitional justice in Democratizing Societies, Oxford University Press, 2001
- Almqvist, J. and Expósito, C. (eds.) The Role of Courts in Transitional justice: Voices from Latin America and Spain, Routledge, 2011
- Arthur, P. (eda.) Identities in Transition: Challenges for Transitional justice in Divided Societies, Cambridge University Press, 2011
- Elster, J. Retribution and Reparation in the Transition to Democracy, Cambridge University Press, 2006
- Elster, J. Closing the Books: Transitional Justice in Historical Perspective, Cambridge University Press, 2014
- Escudero, R. Road to Impunity: The Absence of Transitional Justice Programs in Spain, Human Rights Quarterly, vol. 36, nº 1, pp. 123-146, 2014
- Fishman, R. Rethinking State and Regime: Southern Europe's Tradition to Democracy, World Politics, vol. 42, nº 3, pp. 422-440, 1990
- Greiff, P. de (ed.) The Handbook of Reparations, Oxford University Press, 2006
- Linz, J. The Breakdown of Democratic Regimes: Crisis, Breakdown, and Reequilibration, Johns Hopkins University Press, 1978
- Linz, J. and Stepan, A. Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe, Johns Hopkins University Press, 1996
- O'Donnell, G. and Schmitter, P. Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies, Johns Hopkins University Press, 1986
- O'Donnell, G., Schmitter, P. and Whitehead, L. (eds.) Transitions from Autoritarian Rule: Comparative Perspectives, Johns Hopkins University Press, 1986
- Payne, L. and Lessa, F. (edas) Amnesty in the Age of Human Rights Accountability, Cambridge University Press, 2012
- Przeworski, A. (et al.) Democracy and Development: Political Institutions and Well-Being in the World, 1950-1990, Cambridge University Press, 2000
- Read, J.H. and Shapiro, I. Transforming Power Relationships: Leadership, Risk, and Hope, American Political Science Review, vol. 108, nº 1, pp. 40-53 , 2014
- Teitel, R. Transitional Justice, Oxford University Press, 2000
- Williams, M., Nagy, R. and Elster, J. (eds.) Transitional Justice, New York University Press, 2012

ADDITIONAL BIBLIOGRAPHY

- Bermeo, N. The Revolution within the Revolution: Workers' Control in Rural Portugal, Princeton University Press, 1986
- Fishman, R. and Lizardo, O. How Macro-Historical Changes Shapes Cultural Tastes: Legacies of Democratization in Spain and Portugal, American Sociological Review, vol. 78, nº 2, pp. 213-239, 2013
- Hilbink, L. and Ferrán. O. (edas.) Legacies of Violence in Contemporary Spain, Routledge, 2016
- Mainwaring, S. and Pérez-Liñán, A. Democracies and Dictatorships in Latin America: Emergence, Survival, and Fall, Cambridge University Press, 2013

BASIC ELECTRONIC RESOURCES

- Democratization . Journal: http://www.tandfonline.com/toc/fdem20/current
- Journal of Democracy . Web Page: http://journalofdemocracy.org
- Oxford Transitional Justice Research . Web Page: http://www.law.ox.ac.uk/research-subject-groups/oxford-transitional-justice-research
- The Center for Justice and Accountability . Web Page: http://cja.org
- The Internacional Center for Transitional Justice . Web Page: http://www.ictj.org