# Public law and governance

## Prof. Barbara Boschetti; Prof. Craig Martin

First part: *Prof. Barbara Boschetti*

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course introduces to the role and content of contemporary public law and governance from a comparative perspective and provides essential skills of legal analysis and discourse, thus enabling students to address critical contemporary public law challenges.

Students will acquire the basic knowledge and understanding of public law and governance. They’ll be able to apply such knowledge and understanding for better evaluating and assessing social and economic challenges and political and institutional changes. Public law also offers a perfect testbed for learning and practicing a contest-specific vocabulary which is key in political and social sciences.

***COURSE CONTENT***

1. Law and Governance.
2. The rule of law principle. Sources of the Constitution and of the law.
3. States and beyond. Sovereignty and related concepts. Federalistic processes. The European Union. The international landscape and its players
4. Constitutions. constitutional theories. The constitutional power. Constitutional changes.
5. The Separation of Powers: supremacy of Legislature in law making – the Rule of Law – the Separation of Powers - the Parliament - the Executive - the Judiciary.
6. Democracy and new democratic challenges
7. Good Governance: Legality, accountability, transparency.
8. Public administration and constitutional principles (among others: Legality, Due process, Independency and Impartiality) - Independent Agencies. Global administration patterns.
9. Human and Foundamental rights of individuals and groups. Defending Rights

***READING LIST[[1]](#footnote-1)***

Dennett, *Public law*, Oxford University Press, 2019 (selected chapters)

A selection of additional readings and study cases will be suggested during lectures and published on the BlackBoard page of the course.

***TEACHING METHOD***

Lectures and seminars. The power point presentations and all materials will be available on the online platform Blackboard. Active participation is strongly encouraged: students are expected to participate constructively with comments and questions. Students will be required to hand in essays on specific topics and/or cases to be discussed in classes.

***ASSESSMENT METHOD AND CRITERIA***

For attending students, expected learning goals are assessed based on individual/group presentations and other in class activities worth the 25% of the final grade and on a written exam worth the 75% of the final grade. For interactive activities, the score ranges from 0 to 5 points each (depending on the difficulty level), to allow students to score a total of 31 points (throughout the entire duration of the course). The written exam consists of a maximum of 4 open-ended questions and/or case studies. A mid-term written text may be provided.

For *non attending students*, the assessment will be carried out through a written examination, consisting of a set of multiple-choice and/ or open-ended questions and/or case studies.

***NOTES AND PREREQUISITES***

Based on the fact the course aims at providing the foundations of public law, no prerequisites are required.

Second part: *Prof. Craig Martin*

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

This course is a seminar that explores how different rights are enshrined, interpreted, and enforced in different constitutional systems. It will be limited to an examination of a few systems, and only a few specific rights. The emphasis will be on comparing the systems of the United States, Canada, Japan, and the E.U. (primarily decisions of the European Court of Human Rights, and in some cases the courts of certain specific European countries). Some reference will also be made to systems such as South Africa. The analysis will focus on equality rights, freedom of expression, freedom of religion, and security of the person and autonomy. The course will begin with a theoretical exploration of the different understandings of the nature of rights, the role of the judiciary and judicial review in a democracy, and how the limitations on rights and justifications of infringement are, and ought to be, analyzed.

The course is aimed at developing a deeper understanding of rights, and how different constitutional systems, and different judiciaries, understand and protect those rights. It is intended that the course will both provide not only an introduction to the constitutional protection of rights in the systems of several other democratic states, but lead to a much richer and more nuanced understanding of the strengths and weaknesses of any one system of rights protection.

***COURSE CONTENT***

“Comparative Constitutional Law – Rights”

– Introduction - Constitutions and Rights.

– Interpretation and Theories of Judicial Review.

– Limits on Rights and Justification Analysis.

– Equality Rights – US & Canada.

– Equality – Adverse Effects and Disparate Impact.

– Equality Rights – Japan & Europe.

– Freedom of Religion – US & Canada.

– Freedom of Religion – Japan & EU.

– Freedom of Expression – US & Canada.

– Freedom of Expression – Japan & Europe.

– Hate Speech – Comparative Approaches.

***READING LIST***

The course materials will be provided, and will be posted for download on a cloud-based service called Box.com.

***TEACHING METHOD***

This being a seminar, the course will involve considerable class discussion and debate of the issues under examination each day. All students are expected to be familiar with the material for each class, to be able to engage the issues on the basis of those readings, and to contribute to the discussion in a thoughtful, professional, and respectful manner.

The full attendance policy is provided below, but attendance is also a component of participation.

Laptop use:Students may use laptop computers for the purposes of taking notes, or referring to course materials or notes prepared for class. The use of laptops for accessing social-networking sites, checking email, or otherwise surfing the internet, is forbidden during the class, and may lead to the loss of privileges to use laptops in this class. Similarly, the use of smart phones and other PDAs is forbidden in class.

***ASSESSMENT METHOD AND CRITERIA***

The grade for this section of the course will be based on participation (10%), and a final exam (90%). It will be 1 hour long, and will be essay and short answer questions based on the material studied throughout the course.

***NOTES AND PREREQUISITES***

Based on the fact the course aims at providing the foundations of public law, no prerequisites are required.

1. I testi indicati nella bibliografia sono acquistabili presso le librerie di Ateneo; è possibile acquistarli anche presso altri rivenditori. [↑](#footnote-ref-1)