



INTRODUCTION

Brief description: This subject is aimed at understanding the core principles of US Legal Tradition.

- **Titulación:** Anglo-American Law Program, Global Law Program, Grado en Derecho, Grado en Relaciones Internacionales
- **Módulo/Materia:** Optatividad, Derecho angloamericano
- **ECTS:** 3
- **Course and semester:** First year, first semester
- **Schedule and Classroom:**
 - Monday 8, 15.30-18.30: Classroom M2 Amigos
 - Tuesday 9, 15.30-18.30: Classroom M5 Amigos
 - Wednesday 10, 15.30-18.30: Classroom M3 Amigos
 - Thursday 11, 15.30-18.30: Classroom M4 Amigos
 - Friday 12: INAUGURATION OF THE ACADEMIC YEAR
 - Monday 15, 15.30-18.30: Classroom M3 Amigos
 - Tuesday 16, 15.30-18.30: Classroom M1 Amigos
 - Wednesday 17, 15.30-18.30: Classroom M3 Amigos
 - Thursday 18, 15.30-18.30: Classroom M4 Amigos
 - Friday 19, 15.30-18.30: Classroom M3 Amigos
- **Character:** Optativa
- **Professor responsible for the subject:** Fernando Simón Yarza (Professor of Constitutional Law at the University of Navarra)
- **Visiting Professors:** Conor Casey (Senior Lecturer at the University of Surrey) and Michael Foral (Associate Professor at the University of Oxford)
- **Idioma:** inglés
- **Schedule and Location:** The course will be delivered in an intensive format in the afternoon from September 8th to 19th. See WebUntis timetable to check classrooms.

Please note that the schedule is subject to changes due to reasons beyond our control.

RESULTADOS DE APRENDIZAJE (Competencias)

De acuerdo con la **Memoria del Grado en Derecho**, las competencias que los estudiantes deben llegar a dominar asociadas a las asignaturas Optativas vinculadas al Anglo-American Law Program del que forma parte esta asignatura son las siguientes:

Competencias básicas

CB1 - Que los estudiantes hayan demostrado poseer y comprender conocimientos en un área de estudio que parte de la base de la educación secundaria general, y se suele encontrar a un nivel que, si bien se apoya en libros de texto avanzados, incluye también algunos aspectos que implican conocimientos procedentes de la vanguardia de su campo de estudio.

CB2 - Que los estudiantes sepan aplicar sus conocimientos a su trabajo o vocación de una forma profesional y posean las competencias que suelen demostrarse por medio de la elaboración y defensa de argumentos y la resolución de problemas dentro de su área de estudio.

CB3 - Que los estudiantes tengan la capacidad de reunir e interpretar datos relevantes (normalmente dentro de su área de estudio) para emitir juicios que incluyan una reflexión sobre temas relevantes de índole social, científica o ética.

CB4 - Que los estudiantes puedan transmitir información, ideas, problemas y soluciones a un público tanto especializado como no especializado.



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CB5 - Que los estudiantes hayan desarrollado aquellas habilidades de aprendizaje necesarias para emprender estudios posteriores con un alto grado de autonomía

Competencias generales

CG1 - Poseer un conocimiento general de la disciplina y la metodología jurídicas que permita el ejercicio de actividades de carácter profesional en el ámbito del Derecho o la adquisición de los títulos complementarios exigidos por la ley para determinadas actividades profesionales.

CG2 - Expresar y transmitir adecuadamente ideas complejas que permitan comunicar, de manera oral y escrita, soluciones fundadas en Derecho a un público especializado o no.

CG3 - Localizar y gestionar correctamente las fuentes jurídicas, tanto legales, jurisprudenciales y doctrinales.

Competencias específicas

CEE1 Conocer los conceptos jurídicos básicos de la tradición jurídica angloamericana de forma que se pueda comunicar en inglés oralmente o por escrito sus principales características en sus ámbitos principales.

SYLLABUS

I. PROF. FERNANDO SIMÓN (8-11 September)

1. Introduction / The Common Good *versus* the Primacy of the Individual (Monday, September 8)

The session will address some fundamental aspects of the dominant discourse on rights, and will show some consequences that follow as a corollary from this discourse. Contemporary deviation of the discourse of rights will be contrasted with the classical foundations of American constitutionalism in the idea of common good. The class will also attempt to explain a semantic ambiguity inherent in the modern language of rights, and will conclude with a commentary on current trends of recovery of the common good as a fundamental category of politics and law.

2. Judicial review and the Supreme Court (Tuesday, September 9)

The United States Supreme Court has played a decisive role in the nation's constitutional development, exercising the power of judicial review since *Marbury v. Madison* (1803). As the final interpreter of the Constitution, it has influenced critical issues such as slavery, segregation, civil rights, economic regulation, and executive authority. This central position, however, has fueled enduring debate about judicial activism. The tension between restraint and activism remains a defining theme in American constitutional history.

3. Checks and Balances and the Common Good (Wednesday, September 10)

The concept of "checks and balances" is one of the most important categories of American constitutionalism, as can be seen in the Federalist Papers. In this session, we will explore the idea of checks and balances, as well as the different ways in which it has been implemented in the modern constitutional tradition. A comparative overview to the division of powers will also be made, with a special emphasis on the American model.

4. Common Good and the Limits of Secularity (Thursday, September 11)

The distinction between Church and State is one of the fundamental principles of American political thought. This separation, however, has been the subject of disputed interpretations. Often, in the name of a misunderstood neutrality, abuses have occurred that hinder religious practice and prevent the communities from legitimately expressing itself through religious symbols. In this session, we will deepen into the original meaning and purpose of Constitutional separation between Church and State in the American tradition.



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[September 12: University Inaugural Ceremony (No classes)]

II. PROF. CONOR CASEY (15-17 September)

1. Constitutional Interpretation and the Common Good (Monday, September 15)

Constitutional interpretation is undoubtedly one of the most important areas of Constitutional theory, and perhaps its most controverted area in the Anglo-american academy and judicial practice. Thus, we will dedicate a session to explore the vital role of constitutional interpretation aligned with the Constitution's true purpose and spirit. Emphasizing foundational principles, students will be able to assess how fidelity to the genuine meaning of the Constitution safeguards democratic legitimacy, prevents judicial overreach, and ensures continuity of constitutional order.

2. Representative democracy and the Common Good (Tuesday, September 16)

Representative democracy is a cornerstone of constitutional government and a means to promote the common good. In this session, we will explore how democratic institutions mediate diverse interests and ensure political accountability. Through historical and theoretical analysis, students will assess the strengths and challenges of representative systems in achieving justice, stability, and the public interest.

3. Civil Liberties and the Common Good (Wednesday, September 17)

In this session, we will explore the interpretation of civil liberties through the lens of the human good. We will examine how rights are best understood not as isolated entitlements, but as freedoms oriented toward human flourishing and moral responsibility. Students will engage with philosophical, legal, and constitutional sources to consider how liberty can be harmonized with truth, community, and the demands of justice.

III. PROF. MICHAEL FORAN (18-19 September)

1. Rule of law and the Common Good (Thursday, September 18)

The "rule of law" is essential to a Constitutional state, ensuring all authorities act within legal limits. It guarantees rights, equality, and legal certainty while preventing arbitrary power. By upholding institutional accountability, the rule of law protects constitutional order and fosters public trust in the justice system and governance. In this session, the basic requirements of such an important principle for the common good will be unfolded.

2. National Sovereignty, International Community and the Common Good (Friday, September 19)

National sovereignty remains vital for self-determination, democratic legitimacy, and constitutional autonomy. It allows states to govern independently and protect their national interests. However, in a globalized world, sovereignty faces limits from international law and global challenges like environmental protection and migration. Balancing sovereignty with cooperation is essential to address shared problems while preserving national identity.

EDUCATIONAL ACTIVITIES

Theory in-class instruction and discussion periods: 15 h

Pre-class preparation of reading assignments /research/case solving: 15 h

Personal study and exam preparation (personal notes and notebooks): 30 h

Examination: 5 h

Course Content Objectives:

Upon completion of this course a student will have;



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- Developed a fundamental understanding of the core principles of U.S. Constitutional legal tradition, its history and elements of its ongoing evolution.
- An appreciation of the role of U.S. Constitutional Law within the U.S. legal system.
- Come to understand some of the historical antecedents in the U.S. Supreme Court's decision making process.

Course Skills:

Upon completion of this course a student will have developed the following skills:

- Improved their ability to express themselves, both orally and in writing, in English.
- Comprehend and apply several fundamental U.S. Constitutional principles.

Course Performance Objectives:

Upon completion of this course a student will have developed the ability to:

- Open their minds to the process of "Active Listening"; i.e. to be able to "Listen", "Think" and "Respond" during class discussion.
- Overcome their reluctance to participate orally in class discussion.
- Appreciate the benefits of sharing their individual thoughts and insights to enhance the richness of the classroom experience.
- Work hard to improve their ability to express themselves, both orally and in writing, in English.
- Prepare for class discussions in advance by reading course materials in advance.
- Participate actively in class, by responding to questions posed by the professor, and posing questions themselves.

ASSESSMENT

CONVOCATORIA ORDINARIA

- Class attendance is mandatory and does not add points to your grade.
- Class Participation is highly recommended and therefore, pre-class preparation of assigned readings for in-class discussions is very necessary.

The course grade is divided in three parts:

1. Part I lectured by Prof. Fernando Simón Yarza.
2. Part II lectured by Prof. Conor Casey.
3. Part III lectured by Prof. Michael Foran.

A final exam will be taken on the text: **Conor CASEY: *Common Good Constitutionalism. An Introduction* (Elgar Concise Encyclopedia of Legal Theory and Philosophy, 2024)**
(uploaded in the section: Materials)

CONVOCATORIA EXTRAORDINARIA

The June exam will be worth 100 % of the grade.

OFFICE HOURS

Professor Fernando Simón Yarza is available by appointment (fsimon@unav.es) in Office 2770 in the "Ismael Sánchez Bella" Building.

Patricia Palomino, Coordinator of the International Programs of the School of Law, any problem or request you may have related to the English taught courses, I am available at the Offices of the Secretaría de Derecho in the following schedule:



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Every weekday from 13:00 to 14:00.

You may also ask for a special appointment by email if this schedule does not suit you well.

If the issue affects all the class, I would much rather receive the student delegate or his representative for the Programs. I will be very glad to be of your assistance.

BIBLIOGRAPHY

Required for the Classes:

Fernando SIMÓN YARZA: *Rights Discourse and the Primacy of the Common Good* (pdf, first session)

Required for the Exam:

Conor CASEY: *Common Good Constitutionalism. An Introduction* (Elgar Concise Encyclopedia of Legal Theory and Philosophy, 2024)

Recommended Additional Readings:

Nicholas W. BARBER: *The Principles of Constitutionalism* (Oxford: Oxford University Press, 2018)

Conor CASEY & Adrian VERMEULE: *Myths of Common Good Constitutionalism*, 45(1) Harvard Journal of Law and Public Policy 103 (2022)

Conor CASEY: *Constitutional Design and the Point of Constitutional Law*, 67(2) American Journal of Jurisprudence 173 (2022)

Richard EKINS: *Objects of Interpretation*, 32 Constitutional Commentary 1 (2017)

Michael FORAN: *The Rule of Law: Form, Substance, and Fundamental Rights*, The Cambridge Law Journal (August 8, 2019)

Michael FORAN: *Rights, common good, and the separation of powers*, 86(3) The Modern Law Review 599 (2023)

John FINNIS: *Natural Law and Natural Rights* (Oxford: Oxford University Press, 2nd ed., 2011)

John FINNIS: *Religion and State: Some Main Issues and Sources*, 51 American Journal of Jurisprudence 107 (2006).

Dieter GRIMM: *Sovereignty: The Origin and Future of a Political and Legal Concept* (New York: Columbia University Press, 2015)

Robert P. GEORGE: *Making Men Moral. Civil Liberties and Public Morality* (Oxford: Oxford University Press, 1993)

Alexander HAMILTON, James MADISON, John JAY: *The Federalist Papers* (Indianapolis /Cambridge: Hackett, 2005)

Jens MEIERHENRICH & Martin LOUGHLIN (eds.), *The Cambridge Companion to the Rule of Law* (Cambridge: Cambridge University Press, 2021)

Michel Stokes PAULSEN & Luke PAULSEN: *The Constitution. An Introduction* (New York: Basic Books, 2017)

Jeffrey A. POJANOWSKI & Kevin C. WALSH: *Enduring Originalism*, 105 Georgetown Law Journal 97 (2016)



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Martin RHONHEIMER: *The Common Good of Constitutional Democracy* (Washington: CUA Press, 2013)

Fernando SIMÓN YARZA: *Between Desire and Reason. Rights Discourse at the Crossroads* (London: Rowman & Littlefield Int., 2019)

Fernando SIMÓN YARZA: *Natural Law Theories and Constitutionalism* (Max Planck Encyclopedia of Comparative Constitutional Law, April 2019)

Adrian VERMEULE: *Common Good Constitutionalism* (Cambridge MA: Polity Press, 2022)

Videos:

Discussion of the following video: the [US Supreme Court in American History](#)

Discussion of the following speeches: John F. Kennedy: [Address to the Houston Ministers Conference](#), 12 September 1960; Ronald Reagan: [Speech to the National Association of Evangelicals](#) (3 February 1983).