

A Shared Legal Order: Interdisciplinary Views

Proposal for an Undergraduate Course

Description

This course would like to bring together a diverse set of experiences and points of view to stimulate our freshmen to start thinking about a fundamental issue: what defines the legal – if you prefer, constitutional – order, which we share? What is it that leads most of us to accept it as “just” and, at the same time, to interact within it - in the multiple paths of life, from politics to business, from the courts to the research labs – forcing its evolution and adaptation to what we progressively come to perceive as “just”? Legal orders require, to be sustained, a “buy-in” by a majority of the relevant community: how is this achieved? Is the ambiguity of most legal phrasing instrumental to this process of acceptation cum adaptation? Hence, is the imprecision characterizing most fundamental principles of our legal system intentional, even necessary, for its stability over time? How should – and how does —the meaning of words like consent, reasonable, due process, and equal protection change as society evolves? Said differently: do rigid and strictly defined legal orders collapse more often? How is the intertemporal contract among anonymous citizens saying “sometimes you get your preferred outcome, other times not, but the risk that you get something you consider completely unacceptable is very small” made credible and therefore sustained? Quite importantly, especially these days, which phenomena or tensions or shocks may lead to a tearing apart of the shared legal order and the disruption of the intertemporal bargain that keeps us together? What can be learned from studying the events that lead to the collapse or the potential collapse of legal systems, both here and abroad?

Importance

Understanding what defines both the boundaries and the pillars of the Legal Order we all live in, is a crucial goal of the education to adulthood that is a part of the college experience. The aim of this course is to lead our freshmen to ask such question and to stimulate their thinking about it by being exposed to different, possibly conflicting, motivations for what makes a shared legal order stand. We believe there is no clear and definite answer one can provide, once and for all, to this question: what is important is to keep asking it as this makes us aware of how precious and, at the same time, fragile such order is. It should be obvious, in fact, that the latter is maintained over time because we, the citizens, are aware of such fragility. A shared legal order is, in fact, an “equilibrium of beliefs”, which stands and functions if and only if the large majority of the players believe it will stand and function

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