

COMPARATIVE PUBLIC HEALTH LAW (SUMMER IN SPAIN)
 THREE CREDITS
 9 AM -10:50 AM
 SUMMER 2017, PROFESSOR SEEMA MOHAPATRA

I. Description of the Course

Welcome to International Public Health Law. The Institute of Medicine has stated that: "The mission of public health is to 'fulfill society's interest in assuring conditions in which people can be healthy.' (Institute of Medicine, Committee for the Study of the Future of Public Health, Division of Health Care Services. 1988. The Future of Public Health. National Academy Press, Washington, DC). The World Health Organization defines health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." This course focuses on both traditional modes of public health law, global public health frameworks, and on current international issues in public health. In this respect, the course deals with global health law and governance, as well as complex ethical questions regarding the duties owed by citizens of different countries in an interdependent world. In this course, students will examine the international, federal, state and local laws and policies that govern activities relevant to the public's health. Students will consider the ethical implications of legal and policy decisions in the United States and internationally. Finally, students will explore prevalent issues facing lawyers on a global arena from a legal and policy perspective. By the end of this course, students will be able to apply knowledge obtained in this and other classes to the most important public health problems facing contemporary society. They will be able to critically evaluate and utilize the tools the law presently provides to address health needs, and they will also be able to understand the gaps in current legal frameworks.

II. Student Learning Outcomes and Assessments of Outcomes

Student Learning Outcomes	Assessments
By the conclusion of international public health law, the student will be able to:	
1. Demonstrate understanding of the role law and lawyers play in preserving, protecting and promoting the public health of a population.	Students will incorporate this theme into class discussions, group presentation, and a final exam.
2. Demonstrate understanding of the constitutional limits, both in existing	Students will explain and apply the concepts and theory in class

law and in constitutional theory, of the state's power to impose public health regulations on individuals.	discussions, group presentation, and a final exam.
3. Demonstrate understanding principles of administrative law, which govern the interpretation, and implementation of public health regulations.	Students will explain, identify, and apply these principles and apply the elements in class discussions, group presentation, and a final exam.
4. Demonstrate understanding of the ethical issues that arise in regulating public health and practicing law in that area.	Students will identify and analyze these issues in class discussions, group presentation, and a final exam.
5. Demonstrate understanding of the role of the International Community and International Law in Public Health.	Students will explain and apply their understanding of international issues in class discussions, group presentation, and a final exam.
6. Demonstrate understanding of the relationship, and sometimes conflict, among the various public and private actors who may have authority during a public health crisis.	Students will explain and apply their understanding of these relationships in class discussions, group presentation, and a final exam.
7. Communicate clearly orally and in writing.	Students will demonstrate these skills in class discussions, group presentation, and a final exam.

III. Classroom Etiquette

At all times, students are expected to be respectful of differing viewpoints. You should conduct yourself with professionalism and should respect each other's opinions. It is essential that everyone contribute to the class discussion (without fear of judgment) because a robust discussion enhances the course. Cell phones should be turned off during class (i.e., no texting or smart-phone use) and should be not placed your desk or in your lap. If using a laptop, it must only be used for taking notes or accessing your article—no shopping or internet use or messaging. Participation credit will be deducted for failing to observe this policy.

IV. Class Attendance and Class Participation

The ABA and the law school require regular attendance of classes. Accordingly, class attendance is mandatory. To be counted as present for a class session, students must arrive on time and be present the entire class time. We have a break built into class so please do not leave class until you are dismissed, except in case of an emergency or other preapproved reason. Do not leave before the break. Those who leave before the break or do not come back on time from the break will be marked absent for the entire class session. Class attendance will be taken at the beginning of each class session and after each break. If you leave class before the class ends, you will be marked absent for that class. If you anticipate that an illness or other circumstances will cause you to be absent any more than 20% of the total hours of the course (i.e., 3 times), please see the Director of the Spain Program.

It is critical to the success of this course that there is active participation by every student during each class. Therefore, I expect you to be well-prepared for each class session. Well-prepared means you are ready to discuss the material assigned for that day as well as preceding material and any information posted by me on Dropbox or via e-mail. Given the importance of a discussion that incorporates the class as a whole, I will not hesitate to “cold call” students at any time. I reserve the right to count those who come to class unprepared as absent for that session. Please review this section so there are no surprises when it comes to grading.

V. Assessment

Assessment for the class will include, but is not limited to in-class hypotheticals, group problem exercises, and Socratic inquiry. Your grade in this seminar will be based upon your Class Participation (25%) (e.g., volunteering constructively during class and sharing your thoughts on discussion questions/role plays and being prepared if called on), group presentation (20%) and a Final Examination (55%).

Class Participation (25%)

Class Participation Rubric

A	A-/B+	B	B-/C	C-/D	F
Actively supports, engages and listens to peers (ongoing)	Actively supports, engages and listens to peers (ongoing) Arrives fully prepared at	Makes a sincere effort to interact with peers (ongoing) Arrives mostly, if not	Limited interaction with peers Preparation, and therefore level of participation,	Virtually no interaction with peers Rarely prepared	No interaction with peers Never prepared Never participates

Arrives fully prepared at every session	almost every session	fully, prepared (ongoing)	are both inconsistent	Rarely participates	Demonstrates a noticeable lack of interest in the material (ongoing)
Plays an active role in discussions (on-going)	Plays an active role in discussions (ongoing)	Participates constructively in discussions (ongoing)	When prepared, participates constructively in discussions and makes relevant comments based on the assigned material	Comments are generally vague or drawn from outside of the assigned material	Group dynamic and level of discussion are significantly harmed by the student's presence
Comments advance the level and depth of the dialogue (consistently)	Comments occasionally advance the level and depth of the dialogue	Makes relevant comments based on the assigned material (on-going)		Demonstrates a noticeable lack of interest (on occasion)	
Group dynamic and level of discussion are consistently better because of the student's presence	Group dynamic and level of discussion are often better because of the student's presence	Group dynamic and level of discussion are occasionally better (never worse) because of the student's presence	Group dynamic and level of discussion are not affected by the student's presence	Group dynamic and level of discussion are harmed by the student's presence	

Group presentation (20%)

A major portion (20%) of your grade is a student led class presentation/discussion on several comparative public health topics-- each group will be comprised of 3-4 individuals. 3 is ideal. No more than 4 can be in a group. Each person in the group must present and lead class discussion for 7-10 minutes (so a three person group would have 21 to 30 minutes plus 10 minutes for questions)

The allowable topics for these discussions are as follows:

(The topics and dates will be allocated on a first come first served basis. Once you know your group--please email smohapatra@barry.edu with your group members and the 3 topics you are interested in order and your top 3 choices for dates of the presentation –June 15, June 19, June 20, or June 21)

Comparative Approaches to:

- 1-Assisted Suicide and Euthanasia (reading on Dropbox)
- 2-Right to Die (reading on Dropbox)
- 3-Organ Transplantation (reading on Dropbox)
- 4-Assisted Reproduction (reading on Dropbox)
- 5-Abortion (reading on Dropbox)
- 6-Tobacco Regulation (reading on Dropbox)

7-SARS and Other Infectious Diseases (reading on Dropbox)

8-Global Public Health Law (reading on Dropbox)

9-Human Subjects Research

If we have most groups choose 3 members, we will need additional topics.

Therefore, I have included a Folder on Dropbox with more suggestions. If you would like to present on a global public health law I have not included, please let me know and I can give approval on a case by case basis.

These presentations allow for is for creativity, team building, and an opportunity to learn and teach about a comparative law topic. All students will be expected to have read the material (if you decide on additional/updated reading, please email it to me so I can add it to dropbox).

	1-3	4-7	8-10
Organization	Students are unorganized and fumble while presenting.	Students are organized and presentation runs smoothly.	Students are not only organized, but at ease in front of the class and the lesson runs without a hitch.
Critical Thinking	Students do not call upon the class to think critically or participate in any meaningful way.	Students call upon the class to participate, but they pose questions where the answers are obvious or do not involve a lot of thinking.	Students push their peers to think critically and analytically about the topic and there is active participation from the class.
Active Involvement	Students lecture the class; there is no chance for participation or active learning.	Students do have some lecture (less than 5 minutes), but most of the time the students are engaged and actively working.	Students get their peers actively working and thinking and participating for the entire lesson.
Adding to knowledge	Students do not add anything to what we have already covered in class	Students add a bit to what the class already knows about the topic.	Students expand on what has been covered in the article or in class discussion in ways that are

			interesting and memorable.
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Total Possible Points = 40 (divide by 2 for grade) (Maximum points 20)
 (Subtract 10 points if you do not present the day you signed up for—the rest of the group must still present—you will be reassigned a different article to present on the last day for a maximum of 10/20 points unless there is a documented excused absence as determined by the head of the Spain program.

Final Examination (55%)

The examination will be a take home examination composed of essay questions based on the reading discussion questions for each class.

VI. Class Announcements

Students should check their official/school e-mail account for any class announcements, clarification of discussions, supplemental materials, answers to other students' questions, and cancellation of class. If I must to cancel class due to unforeseen circumstances, I will endeavor to e-mail the class with as much notice as possible.

VII. Students with Disabilities

Students with documented disabilities may contact the Director of the Spain Program.

VIII. Honor Code

The Honor Code of your school applies to all aspects of this course.

IX. No Recording of Class

No portion of the class may be recorded by audio and/or video. Powerpoints will not be used in this course. It is a discussion based class-not a lecture class.

X. Texts and Reading Assignments

Required Texts:

There are two required textbooks for this course.

LAWRENCE O. GOSTIN & LINDSAY F. WILEY, PUBLIC HEALTH LAW: POWER, DUTY, RESTRAINT 3d. ed. (2016) referred to as "Public Health Law Text" in the reading assignments)

T. R. REID, *The Healing of America: A Global Quest for Better, Cheaper, and Fairer Health Care* (2010) (Available for \$10 on Amazon)

Only the assigned version (not old versions) of these texts are acceptable. A print copy of each text is highly recommended and will make it easier for you for the exam. You should bring both texts to class each day. This is a discussion based, highly interactive course. I will be calling on students and expect you to have done more than skim the reading. We will usually discuss two chapters each day. Although the syllabus is subject to change, I will provide you sufficient notice to adjust to any revisions.

DROPBOX READINGS

In addition to the texts, there are readings on dropbox for some days. In most cases, students will lead the discussion of these in a group presentation (for 20% of their final grade). Students will sign up for these presentations on the first week of class. Anyone not in a group will be assigned a group and topic.

DISCUSSION QUESTIONS

Please be prepared to discuss these questions in class when each chapter is assigned. Some of these questions will likely be on the final exam so if they are answered prior to class, you will have the benefit of being ready for the final.

Monday May 29 Class 1

INTRODUCTION: DEFINING PUBLIC HEALTH AND PUBLIC HEALTH LAW

READING FOR CLASS 1: PUBLIC HEALTH LAW TEXT Chapter 1

Public Health Law Discussion Questions – Chapter One

What are the differences between public health and medicine as distinct disciplines?

The reading describes public health as having a “population focus” – what does that mean and how is it different from the medical perspective?

The reading describes public health as having a “prevention orientation” – what does that mean and how is it different from the medical perspective?

What are some areas where public health and medicine overlap?

What makes a problem a public health problem?

When you think of public health problems, what specific examples come to mind?

For each of the problems you've thought of, generate a few notes about how we might approach the problem from a medical perspective versus a public health perspective:

Health problem	From a health care perspective	From a public health perspective

For each of the problems you've thought of, generate a few notes about how we might approach the problem using the agent/microbial model, the behavioral model, and the social-ecological model:

Public health problem	Agent (microbial) model	Behavioral model	Social-ecological model

On page 28, Tables 1.1 and 1.2 list ten great achievements of the twentieth century and ten public health challenges for the twenty-first century. What role has law played or might law play in each of these achievements and challenges?

The chapter identifies several modes of public health law intervention. Choose one or two of the problems you identified above and write a few notes about how you might use each of the following modes of intervention to address it:

Public health problem	Direct regulation	Indirect regulation through tort liability	Taxation	Spending	Deregulation
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Tuesday May 30 Class 2

- IDENTIFYING PRIORITIES AND SITES FOR PUBLIC HEALTH INTERVENTION: PUBLIC HEALTH SCIENCE AND ETHICS/COMPARATIVE HEALTH SYSTEMS
CASE STUDY: CERVICAL CANCER HEALTH DISPARITIES

READING FOR CLASS 2: PUBLIC HEALTH LAW TEXT Chapters 2 and 9

Note: Feel free to skim portions of Chapter 9 on regulation of public health research.

and CH. 1 HEALING OF AMERICA TEXT

Public Health Law discussion questions – Chapter Two

Why should we prioritize public health?

Which public health problems do we prioritize?

What criteria do we use?

Which public health problems should we prioritize?

What criteria should we use?

How do we develop strategies to address public health problems?

What methodologies do we use?

How can law and policy tools be used to support and evaluate public health interventions?

Think back to the public health models discussed in chapter 1 (agent, behavioral, social-ecological). Does the choice regarding which model to adopt have implications for social justice, individual liberty, and/or political feasibility? What are those implications?

Think back to the modes of public health law intervention discussed in chapter 1 (direct regulation, indirect regulation through tort liability, taxation, and spending). Does the choice regarding which mode of legal intervention to adopt have implications for social justice, individual liberty, and/or political feasibility? What are those implications?

The first two chapters of the text state repeatedly that public health is “highly political” – why? Is it more or less political than health care?

THE HEALING OF AMERICA BY TR REID

CHAPTER 1 DISCUSSION QUESTIONS

1. The Chapter states that the health care system in the United States is “fundamentally a moral problem.” Further, it alleges that, “we’ve created a health care system that leaves millions of our fellow citizens out in the cold. Beyond the issue of coverage, however, the United States also performs below other wealthy countries in matters of cost, quality, and choice.” Discuss another country’s health care system, and how it compares to the health care system implemented in the United States.
2. The Chapter suggests that the United States should study foreign health care systems when choosing what health care system should be implemented. How would you define “socialized medicine” in your own words? What is the actual definition of “socialized medicine”? How does this apply to the health care system in the United States?

Wednesday May 31 Class 3

POWER AND DUTY: FEDERALISM, ADMINISTRATIVE LAW, AND LOCAL GOVERNMENT LAW/ COMPARATIVE HEALTH SYSTEMS

READING FOR CLASS 3: PUBLIC HEALTH LAW TEXT Chapters 3 and 5

Note: Feel free to skim portions of Chapter 3 that review constitutional law doctrines with which you are very familiar and CH. 2 HEALING OF AMERICA TEXT

Public Health Law Discussion Questions – Chapter Three

The subtitle of the book is “power, duty, restraint” – what aspects of public health law do these terms describe?

To what extent and in what ways might negative rights (rights to be “left alone”) further public health goals? Generate specific examples.

To what extent and in what ways might positive rights (rights to be protected from private parties and rights to fulfillment of basic human needs) further public health goals? Generate specific examples.

To what extent and in what ways might federalism and separation of powers further public health goals?

To what extent and in what ways might federalism and separation of powers hinder public health efforts?

Public Health Law Discussion Questions – Chapter Five

What roles do administrative agencies play in furthering public health goals?
Generate specific examples.

What roles do local governments play in furthering public health goals?
Generate specific examples.

What concerns and/or interests does administrative law seek to balance?

What concerns and/or interests does local government law seek to balance?

Imagine you are advising a public health advocacy group interested in promoting lawmaking to address a particular public health challenge. What are some potential advantages and disadvantages (e.g., in terms of efficacy, efficiency, political feasibility, legitimacy, transparency, and vulnerability to legal challenge) of pursuing public health lawmaking through each of the following governmental bodies:

the federal Congress?

a federal agency?

a state legislature?

a state agency?

a local government legislature (e.g., city council)?

a local government agency?

Thursday June 1 Class 4

RESTRAINT: EVALUATING PUBLIC HEALTH INTERVENTIONS IN LIGHT OF
INDIVIDUAL RIGHTS / COMPARATIVE HEALTH SYSTEMS

READING FOR CLASS 4: PUBLIC HEALTH LAW TEXT Chapter 4 and
and CH. 3 HEALING OF AMERICA TEXT

Note: Feel free to skim portions of Chapter 4 that review constitutional law
doctrines with which you are very familiar

CHAPTER 2 DISCUSSION QUESTIONS

1. The issue of health care has been extremely prevalent in recent American news as a result of the presidential election. President Trump has plans to revoke Obamacare and implement another health care system to take its

place. Although the U.S. health care system is like no other country, there are aspects of each of the health care models discussed that would arguably improve or lend ideas to the new health care system. Discuss which of the aspects of the four models should be implemented into the U.S. health care system.

2. When thinking of health care, generally, we tend to think of the necessities: physicals, dental, women's health, etc. However, there is another aspect that may or may not be covered, the non-essentials: Viagra, Botox, plastic surgery. Discuss benefits and detriments to including coverage for these types of treatments.
3. The chapter discusses certain countries that employ health care systems that lack the basic choices they provide to those who register for health care. However, there are also countries that give infinite freedoms in choosing their doctor or hospital. Do you think that it is better to provide more options to those who are registering in health insurance, or is it better to limit the choices of doctors and hospitals? Would it be better to insure in the "middle ground" and allow citizens to choose some aspects of the insurance, but not all?
4. How do you think the health care crisis' around the world affect the doctors and hospitals that are providing treatment to their patients?

Friday June 2 Class 5
COMBINED CLASSES (GROUP SESSION DAY)

Monday June 5 Class 6
DIRECT REGULATION AND DEREGULATION/ GLOBAL HEALTH LAW AND
GLOBAL GOVERNANCE FOR HEALTH

CASE STUDY: HARM REDUCTION STRATEGIES FOR ILLICIT DRUG USERS

READING FOR CLASS 6: PUBLIC HEALTH LAW TEXT Chapter 6
Public Health Law Discussion Questions – Chapter Six

Consider the spectrum of regulatory strategies found on p. 208 of the text. For one or two specific public health problems of your choosing, jot down a few notes about how it might be addressed using each strategy.

What are the potential advantages and disadvantages of each of these strategies (e.g., in terms of efficacy, efficiency, political feasibility, legitimacy, transparency, and vulnerability to legal challenge) from the perspective of a public health advocate?

Are some strategies more or less well suited to address

particular types of public health problems? Generate specific examples.

Health problem	command and control regulation	public disclosure mandate	choice architecture	negotiated rulemaking	industry self-regulation	deregulation

Tuesday June 6 Class 7
TORT LITIGATION/ COMPARATIVE HEALTH SYSTEMS
CASE STUDY: OPIOID OVERDOSE LITIGATION

READING FOR CLASS 7: PUBLIC HEALTH LAW TEXT Chapter 7 and
HEALING OF AMERICA TEXT on France (Chapter 4) and Britain (Chapter 7)

Public Health Law Discussion Questions – Chapter 7

Consider the following types of public health litigation and generate specific examples of each:

- private plaintiff vs. private defendant
- private plaintiff vs. public defendant
- public plaintiff vs. public defendant
- public plaintiff vs. private defendant

What are the potential advantages and disadvantages of tort litigation as a strategy for furthering public health goals (e.g., in terms of efficacy, efficiency, political feasibility, legitimacy, and transparency)?

What lessons might be drawn from tobacco litigation for public health advocates interested in pursuing litigation as a strategy for addressing other public health problems (e.g., chronic diseases associated with overconsumption of unhealthy foods and beverages, prescription opioid overdose, or firearms injuries)?

What lessons might be drawn from tobacco litigation for industries that might be sued with respect to other public health problems?

To what extent and in what ways might tort immunity and/or tort reform hinder public health efforts?

To what extent and in what ways might tort immunity and/or tort reform further public health goals?

CHAPTER 4 DISCUSSION QUESTIONS

1. Discuss whether it is better to promote a doctor's office in a more frugal manner, which allows the patients to receive the benefit of lower health insurance, or (as in the United States) have higher health insurance rates that reimburse the doctors for their services.

2. Discuss the ways the article lists the French health care system is different than the U.S. health care system.
3. Do you think it would be beneficial for Aetna and UnitedHealth to be more transparent, as the national Health Ministry is in France?
4. Doctors in France are paid much less than doctors in the United States -- is a benefit or detriment to the services that French doctors provide to their patients?

CHAPTER 7 DISCUSSION QUESTIONS

1. How does the U.K. health care system differ from the health care system in the United States?
2. Discuss the ways in which the chapter claims that America has copied the NHS Model, and whether these methods are beneficial or detrimental to the health care system.
3. Dr. Ahmed Badat stated, "You know, the NHS pay me for the people on my list whether they come into the surgery or not." What problems does this present to the NHS system? How can the doctors that are paid through the NHS take advantage of this system?
4. Discuss the acronym NICE. What are the major implications surrounding this type of selection process?
5. Do you think that it would be beneficial for doctors in the U.S. to still make house-calls as they do in the U.K.?
6. How do the results of the NICE decisions compare to the U.S. health care system in terms of medical malpractice claims?

Wednesday June 7 Class 8

CASE STUDY: INTEGRATION OF THE PUBLIC HEALTH AND HEALTH CARE SYSTEMS

READING FOR CLASS 8:PUBLIC HEALTH LAW TEXT Chapter 8(discussion questions will be emailed to you)
and HEALING OF AMERICA TEXT on Germany (Ch 5) and Japan (Ch 6)

Note: If you have taken a health law survey course, feel free to skim portions of Chapter 8's case study on health care access with which you are very familiar

CHAPTER 5 DISCUSSION QUESTIONS

1. How does the German health care system compare to the health care system employed by the United States?
2. The last chapter discussed the health care system in France. How do the health care systems in France, Germany, and the United States compare?

CHAPTER 6 DISCUSSION QUESTIONS

1. This chapter discusses the many ways in which the Japanese Health Care System is similar and different to the health care provided in the United States. Discuss these similarities and differences as well as the aspects of the system that could be beneficial if utilized in the United States.
2. In what ways does the chapter list that the Japanese model is distinct from the Bismarck Model?
3. Discuss the ways in which the Japanese health care system described in this chapter relates or differs from the German health care system discussed in the previous chapter.
4. Discuss what it means to have a multiplayer system that works like a single-player system.
5. The author claims that the first Japanese doctor that he consulted refused to accept any payment at all. Although, realistically, this is not the reality of all doctors in Japan, the rates for medical services are much lower than in the United States. What might be a reason for the lower fees charged for providing medical services in Japan compared to the United States?

Thursday June 8 Class 9
NON-COMMUNICABLE DISEASE PREVENTION/ INTERNATIONAL ISSUES IN
PUBLIC HEALTH

READING FOR CLASS 9: PUBLIC HEALTH LAW TEXT Chapter 12

(discussion questions will be emailed to you)

Friday June 9 Class 10
(COMBINED CLASSES) SUPREME COURT VISIT # 1 (TO MADRID)

Monday June 12 Class 11
INJURY AND VIOLENCE PREVENTION

READING FOR CLASS 11: PUBLIC HEALTH LAW TEXT Chapter 13(discussion questions will be emailed to you)

TR REID DOCUMENTARY

Tuesday June 13 Class 12
PUBLIC HEALTH EMERGENCIES / INTERNATIONAL ISSUES IN PUBLIC HEALTH
PUBLIC HEALTH LAW TEXT Chapter 11 PANDEMIC INFLUENZA
PREPAREDNESS FRAMEWORK (discussion questions will be emailed to you)

Wednesday June 14 Class 13
THE AIDS PANDEMIC
Readings on Dropbox on HIV/AIDS (discussion questions will be emailed to you)

And The Band Played On Movie

Thursday June 15 Class 14
CURRENT ISSUES IN GLOBAL HEALTH
IN CLASS PRESENTATIONS
TOPICS TBA (Readings on Dropbox)

Take Home Final Examination will be emailed to the class by class time. The Final Examination is due by class time June 19. It must be emailed to szeno@barry.edu so that I am able to grade it anonymously.

Friday June 16 Class 15
(COMBINED CLASSES) SUPREME COURT VISIT # 2 (TO MADRID)

Monday June 19 Class 16
Final Examination Due by Class Time
CURRENT ISSUES IN GLOBAL HEALTH
In Class Presentations by Student Groups
TOPICS TBA (Readings on Dropbox)

Tuesday June 20 Class 17
CURRENT ISSUES IN GLOBAL HEALTH
In Class Presentations by Student Groups
TOPICS TBA (Readings on Dropbox)

Wednesday June 21 Class 18
CURRENT ISSUES IN GLOBAL HEALTH
In Class Presentations by Student Groups
TOPICS TBA (Readings on Dropbox)

Thursday June 22 Class 19
CURRENT ISSUES IN GLOBAL HEALTH
Wrap-up

Friday June 23 Class 20
Final Observations

Syllabus May 2017 Version/Subject To Change