



## AYUDAS RAMÓN Y CAJAL CONVOCATORIA 2019

### Turno de acceso general

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**Referencia:** RYC2019-028316-I

**Área Temática:** Derecho

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#### Título:

Filosofía del Derecho: Historia del pensamiento jurídico, teoría de los derechos humanos y teorías jurídicas críticas

#### Resumen de la Memoria:

The core of my research can be framed in the subject of legal philosophy, with a special focus on the history of legal ideas. The research I have developed therein may be divided into three main topics:

1) Firstly, the circulation of legal ideas, a research field which is a crucible of several disciplines: legal history, sociology of law and comparative law. Within this topic, it is worth underscoring my research about the reception of Friedrich Carl von Savigny's thought in Spain, the reception of Rudolf von Jhering's ideas both in Europe and outside Europe, as well as my research on the academic contacts between Adolfo Posada or Rafael Altamira and Latin American intellectuals. These investigations were accomplished thanks to some stays in Germany, both in Munich and Cologne, in 2006, 2007, 2009 and 2015, and were financed by the FPU Program of the Ministry of Education in Spain, as well as the FONDECYT Program in Chile.

2) Secondly, the history of social rights. One of the most successful criteria to classify human rights is based on the so called generational theory of rights. The aim of my historiographical research is to deny the claim that social rights purportedly arose later than civil rights. With that objective in mind, my research tries to bring out some historical periods and authors that have usually been neglected, whose contributions were though outstanding with regard to the genesis of social rights. Most of these researches were supported by several projects of the Ministry of Science and Innovation in which I have participated along the past seven years. I have also directed a PhD Thesis on this subject.

3) Finally, the history of legal positivism. The question about the obsolescence of legal positivism is one of the most debated in contemporary legal philosophy. Yet it is a debate which usually leads to a dead end, because it rarely takes into account the historical outlook. That is why I have tried to reformulate the problem about the alleged crisis of positivism from the standpoint of its longstanding evolution, and I have proposed that the theoretical difficulties of positivism are not related to the so called "incorporation of morals" in legal texts, but to the loosening of the distinction between law and politics. I have published an anthology of writings on this subject: *La filosofía del derecho en tiempos de crisis*.

Aside from the history of legal thought, in the last years I have opened a research line in the area of Commons. More precisely, I have tried to examine if and how the theory of commons could be brought into legal science from a general perspective (not only in the regulation of property), and how these theories might be helpful to democratize legal practice, which nowadays has severe problems of democratic legitimation. These investigations have been supported by the FONDECYT Program of Chilean Government, through the project *El derecho como bien común*, and by a Research Assignment (*Assegno di Ricerca*) at *Università Amedeo Avogadro del Piemonte Orientale*. Furthermore, I am currently one of the two principal researchers (IP) in a research project funded by CAM-UAM about the commons

#### Resumen del Currículum Vitae:

Soy Licenciado en Humanidades (2005) y Doctor en estudios avanzados en derechos humanos (2011) por la Universidad Carlos III de Madrid, en ambos casos con Premio Extraordinario.

Entre 2006 y 2013 fui profesor de filosofía del derecho en la Universidad Carlos III, ocupando varias posiciones: desde becario FPU hasta investigador adscrito al Instituto de derechos humanos Bartolomé de las Casas, en cuyo seno llevé a cabo funciones de investigación, docencia y gestión. Entre estas últimas, fui Co-director del Título de especialista en Educación para la Ciudadanía, Secretario del Máster Oficial en derechos humanos, y Secretario de la revista *Universitas*. Revista de filosofía, derecho y política. Entre 2014 y 2018 he sido profesor e investigador de la Universidad Autónoma de Chile, donde formé parte del Comité Académico del Doctorado en Derecho. Entre octubre de 2018 y enero de 2019 he sido investigador de la *Università Amedeo Avogadro del Piemonte Orientale*. Actualmente soy profesor ayudante doctor en la Universidad Autónoma de Madrid.

He participado en más de diez proyectos de investigación, entre los que destaca el Proyecto Consolider "El tiempo de los derechos", del Ministerio de Ciencia e Innovación del Gobierno de España, y el Proyecto Fondecyt "El derecho como bien común", de la Comisión Nacional



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de Investigación Tecnológica y Científica del Gobierno de Chile, este último como IP. Actualmente soy IP de otro Proyecto I+D financiado por la Comunidad Autónoma de Madrid y la Universidad Autónoma de Madrid. Participo además en varios comités editoriales: Revista Ius et Scientia. Revista electrónica de derecho y ciencia; Revista Actas de Teoría del Derecho; Serie Filosofía del Derecho de la Editorial Athenaica; y serie Filosofía del Derecho de la Editorial Olejnik.

Entre mis líneas de investigación destacan la historia del pensamiento jurídico, la historia de los derechos sociales, la teoría del positivismo jurídico o la teoría de los bienes comunes. Sobre todos estos temas he publicado cerca de cuarenta contribuciones entre capítulos de libro y artículos en revistas; soy autor de una monografía acerca del pensamiento de Rudolf von Jhering, autor de un volumen de ensayos sobre filosofía jurídica, co-editor (con Carlos Lema) de un libro colectivo sobre derechos sociales y traductor/editor de una edición crítica del clásico "La lucha por el derecho" de Rudolf von Jhering. He participado en numerosos congresos internacionales y he impartido varias decenas de ponencias en jornadas de España, Chile, México, Suecia o Alemania. Además, he desarrollado estancias de investigación en universidades de Italia (Milán, 2008; Turín, 2017), Alemania (Múnich, 2006, 2007 y 2009; Colonia, 2015), México (Monterrey, 2014) y Chile (Temuco, 2014).

Desde el punto de vista docente, he impartido asignaturas de teoría del derecho, filosofía del derecho, filosofía política o derechos humanos, (en pregrado) y de impartir clases en posgrados, tanto en el Máster Oficial en derechos humanos de la Universidad Carlos III, como en el Magíster en Derecho y el Doctorado en Derecho de la Universidad Autónoma de Chile. He dirigido cuatro tesis doctorales, dos de ellas en régimen de co-dirección (tres en la Universidad Carlos III y una en la Universidad Autónoma de Chile) y he dirigido cuatro Trabajos de Fin de Máster (tesinas) en la Universidad Carlos III de Madrid.



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#### Título:

Contract Law, digital revolution and challenges for consumer protection

#### Resumen de la Memoria:

Since I began my academic career, my main line of research has mostly focused on European and Spanish contract law and consumer law. Additionally, I have extensive research experience in the area of tort law. In the last years, I have devoted my research to the study of the digitalization of contracts. My proposed project, entitled Contract Law, digital revolution and challenges for consumer protection, aims at analysing the impact of digital technology on contract law, as well as the need of new legislative reforms to offer solutions to the challenges that digitalization entails for consumer protection. Some particular issues that will be analysed are contracts for the supply of digital content and personal data as consideration in consumer contracts. My research will consider Spanish law, as well as European law and international law and will be approached from a multidisciplinary perspective.

Most of my academic career has been developed at the Patrimonial Law research group of the UPF founded by Prof. Pablo Salvador. I have also been a visiting scholar at the University of Manchester (2008), a visiting fellow at the European University Institute (2015) and Juan de la Cierva-Incorporación researcher at the Study Centre on Consumer Law lead by Prof. Ángel Carrasco at the UCLM (2015-2017). Since 2018, I am vocal of the Section of Obligations and Contracts of the Catalan Codification Commission. Over the past fifteen years, I have developed an intense scientific production and dissemination of results. I have written a book, 7 book chapters published by international and national publishers, 26 articles published in indexed law reviews and 5 publications in congress proceedings. The results of my research have been presented in 15 international and national conferences and seminars.

With respect to participation in international activities, I am currently a researcher of the European Project Fundamental Rights in Courts and Regulation (FricoRe) (2019-2022) funded by the European Commission, which involves a network of 7 European universities coordinated by The University of Trento. My contributions include works presented in international conferences organized by The International Academy of Comparative Law, the Latin American and Iberian Law and Economics, the European Law Institute or the European Network of Housing Research. I am fellow of the European Law Institute and Spanish Correspondent of The International Construction Law Review.

My curriculum exhibits a strong capacity to lead my own line of research, which, among other merits, was recognized with the VI Special Award for Doctoral Thesis of the UPF Law Department. Besides, I have one research period merit acknowledged by AQU Catalonia. I am peer reviewer in several legal journals. I should also highlight my proved initiative to undertake new projects and my capacity to secure research funds in highly competitive calls, both as principal researcher (among others, Juan de la Cierva-Incorporación scholarship and FPI research grant), as well as a member of 13 R&D projects funded through competitive calls. Regarding my experience supervising research projects, I have supervised postgraduate, master's degree and bachelor's degree final projects. I also have been a member of evaluation panels of PhD thesis projects.

#### Resumen del Currículum Vitae:

Bachelor's degree in Law (2004) and LL.M. in Private and Business Law (2005) from UPF. In 2005 I was granted a FPI fellowship to begin my academic career at the Civil Law Department of the UPF. Since then, I am research participant in the Patrimonial Law research group of the UPF founded by Prof. Pablo Salvador. In 2008 I was a visiting scholar at the School of Law of the University of Manchester. In 2012 I defended my Ph.D. thesis, which, in 2015, was awarded the VI Special Doctorate Award of the UPF Law Department and, in 2014, was published by Thomson Reuters Aranzadi in a book entitled Promoción inmobiliaria, autopromoción y cooperativas de viviendas. Obligaciones y responsabilidades en derecho de la edificación. In the field of Construction Law, I have also written a large number of articles. During my pre-doctoral training I also published several noteworthy contributions in the area of tort law. In the post-doctoral period, I have continued my specialization in the field of Spanish and European contract law, with special attention to consumer law. My research in this field has been fostered by the following developments: in 2015 I was a visiting fellow at the European University Institute (Florence) under the supervision of Profs. H. Micklitz and S. Grundmann, two of the most reputed scholars in European Private Law. In the same year, I was awarded a Juan de la Cierva-Incorporación fellowship (2015-2017) to conduct research in the Study Centre on Consumer Law (CESCO) lead by Prof. A. Carrasco at the UCLM. Throughout my academic career I have published a book, 7 chapters of book in prestigious international and national publishers (Springer, Aranzadi-Thomson-Reuters, Bosch Wolters Kluwer), as well as 26 articles in indexed law reviews (Scopus, WoS, ERIHPlus, Carhus Plus, Latindex) and 5 publications in congress proceedings. The results of my research have been presented in 15 international and national conferences and seminars (organized by The International Academy of Comparative



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Law, the Latin American and Iberian Association of Law and Economics, the European Law Institute or the European Network of Housing Research). More than half of my presentations were upon invitation. I have participated in courses taught in prestigious international research centres (Harvard Law School, Studiumzentrum Gerzensee). I am currently a researcher of the European Project Fundamental Rights in Courts and Regulation (FricoRe) (2019-2022) funded by the European Commission which involves a network of European universities coordinated by The University of Trento. In total, I have participated in 13 research projects funded through competitive offers by public institutions. Since 2018, as a vocal of the Section of Obligations and Contracts of the Catalan Codification Commission I participate in the legal drafting of the Sixth Book of the Catalan Civil Code. I am fellow of the European Law Institute, Spanish correspondent of The International Construction Law Review and regular peer reviewer in several legal journals (InDret, IDP and Anales de Derecho). I have supervised several postgraduate, master s degree and bachelor s degree final projects and have been a member of evaluation panels of Ph.D. thesis projects. I have one research period merit acknowledged by the AQU and the accreditation of Profesora Contratada Doctora issued by ANECA