

SCHOOL OF ADVANCED STUDIES- 2011 PhD Research topics

Area of Studies

Law, Economy and Society

Curriculum:

FUNDAMENTAL RIGHTS IN THE GLOBAL SOCIETY

Learning objective

We will train researchers able to manage – starting from different disciplinary approaches – issues related to:

- the globalization of the language of rights,
- their constitutional role as fundamental rights in national and supranational law systems,
- the tension between universalism and particularism resulting from Western origin of language rights and
- the need to interpret it in different cultural contexts.

A special care will be paid to the following profiles:

- historical roots;
- theoretical and constitutional status of human rights;
- evolution and risks related to economic and social transformations;
- internal, transnational and international facets of their protection.

As a result of globalization processes, the ideas of law, law system and rights met relevant changes: a renewal of the training process and the proposal for a PhD curriculum focused on these issues are therefore particularly valuable.

The distinction between national and international law is increasingly fading, and on the global scene international law is no longer alone. Rules are made by institutional or semi-public bodies, or are "sold" by transnational law firms or transnational referees, while the covenant pattern goes beyond the traditional area of private law to be used in constitutional, administrative and criminal law.

Human rights spread out beyond the borders of the state, too; but their protection at the global level depends on traditional legal standards (statute law, constitution, national regulations) only in some cases. It is entrusted primarily to the courts.

The language of rights is likely to be used for claims of individual and collective subjects, but its ubiquitous character leads to the risk of losing prescriptive capacity: rather than legal principles related to legal protection, it often results in ethical exhortations. This might lead to the impotence of law, or to its complete functionalization to the social or economical processes, while rights are to be reduced to purely ideological functions. The monistic model and the formalist theoretical visions of law are inadequate to address these issues.

Theoretical and dogmatic legal research has to face several (and competitive) social, political and legal actors, and cannot take account of economic, social, cultural, political processes underlying the making of law, in traditional and new forms. In other words, the legal theory cannot isolate itself in an outdated methodological 'purity'.

	<p>Starting from these – widely used in literature – assumptions, this curriculum employs expertise from various areas of legal theory, linking them on a strong public-law, international-law, and theoretical basis, and developing them in connection with historical, sociological, political and economic reflections.</p>
<p>Research topics:</p>	<ul style="list-style-type: none"> • Subjective rights and human rights: their roots in the Roman law and in the history of medieval and modern law • Theoretical status of rights • Historical evolution and claims process • Economic transformations in the age of globalization and threats against human rights • Labour market, economic legislation, labour law and their social consequences • Universalism and cultural differences • Human migration, multicultural societies, legal pluralism and rights • Social changes, gender issues and welfare state • The assertion on “new rights”: exploring their social, cultural, gender, bioethical, biopolitical dimensions • Constitutionalization of rights and the changing of constitutional law • A national, European and international system of safeguarding rights: internal and international courts, armed ‘humanitarian’ intervention • The making of transnational private law and the role of law • Transformations of criminal law and criminal justice