

Università degli Studi di Palermo



Scuola delle Scienze Giuridiche ed Economico-Sociali
Dipartimento di Giurisprudenza
Dottorato di ricerca in “Diritti umani: evoluzione, tutela e limiti”
Master of Legal Theory - Frankfurt

WINTER COURSE **Whose Rights?**

Palermo, 13-17 febbraio 2017

The Winter Course “Whose Rights?” (hereinafter, the Winter Course) is organized within the framework of the PhD Program in Human Rights of the University of Palermo, in cooperation with the Master’s Course in Legal Theory of the University of Frankfurt auf Main.

Introduction – key concepts

The age of rights, the global diffusion of the discourse of human and fundamental rights, the commitment to the idea of the axiological priority of rights (or at the very least their equal standing) vis-à-vis the other fundamental concepts of the ethical, political and legal discourse, all mark a clear obsolescence of the 19th century model of the ‘legislative’ State, i.e. the model of State grounded on the supremacy of statutory law as the law that is typically produced by a Parliament with a view to the ‘public interest’ (however this may then be declined); such obsolescence is also testified by the success of such formulas ‘constitutional state’, ‘global constitutionalism’, and so on.

This paradigm shift, whose shape is not yet precisely defined, can become particularly visible by making reference to the condition of the individual, the ‘legal subject’. In the model of the ‘Legislative State’, whose roots go back to the French Revolution and the codification of the law in 19th century Europe, there is room for just one kind of ‘legal subject’, that is, the abstract individual that is subject to the laws of the State on an equal footing just as all the other citizens – or more generally as all the other individuals that are subject to the sovereignty of the State. By contrast, the model of the ‘Constitutional State’ and of global constitutionalism conceives of the ‘legal subject’ as a ‘subject of rights’, i.e. as holding a multifarious array of fundamental rights that are meant to make possible and foster the free development of individual personality. Many important implications follow from this, and sometimes stating that someone ‘has’ a right becomes a very complicated task. To begin with, it is quite obvious that under the ‘Constitutional State’ model people have rights against the State, and even against the legislative branch; this may sound trivial indeed, since having rights against the State is exactly the point of the Constitutional State; but the implications of this are far from trivial, for instance as far as the relation between democracy and the judicial protection of rights is concerned). Moreover, the various fundamental rights asserted and protected by the Constitutional State may all too easily clash, for instance because many individuals may have the same right and under the circumstances it proves impossible to satisfy all of them at once (intra-rights conflicts), or because different subjects may be in conflict in the exercise of different rights (inter-rights conflicts, such as

the familiar case of the conflict between privacy and free speech). And finally the value of pluralism, upon which the 'Constitutional State' is premised, makes room for the possibility that rights are distributed and protected on a somewhat differentiated basis, should this be deemed necessary for the free and full development of individual personality.

From this perspective, the importance of a theoretical analysis and critical discussion of the legal subject as a subject of (multiple and possibly even differentiated) rights becomes clear. Accordingly, among the topics to which the Winter Course will devote particular attention there will be: the question of the rights of the persons involved in procreative practices such as IVF and surrogacy arrangements; the condition of migrant women and their variable legal statuses, also from an historical perspective, with particular reference to the Mediterranean area; the stratification of normative systems of different nature (i.e., religious, traditional, colonial, national normative systems) that characterizes the condition of women in some MENA countries, and the effects of their concurrence in the definition of the legal subject and her entitlements. The concept of 'vulnerability' will be analyzed, with particular reference to the conditions under which a person may be deemed as 'vulnerable', and to the relations that may occur between the vulnerable person and other subjects involved in the process of protection of fundamental rights. Particular attention will be paid to the concept of human dignity, and the possible uses of this concept in the processes of rights creation and interpretation.

Topics and objectives

The Winter Course will propose a reflection and critical discussion on the question of the legal subject as a subject of rights, and at the same time on those very rights that are claimed, protected, questioned. The Winter Course will focus particularly on some situations that turn out to be highly debated, both as a matter of view of positive law (be it domestic, international, or transnational law), and as ethical and political issues; these are those situations that are particularly contested due to the plurality of subjects that claim competing rights, or to the concurrence of clashing or just diverging interests, or to the multiplicity of applicable laws and normative systems.

The speeches that will be delivered in the Winter Course will offer an interdisciplinary perspective on the topic under consideration, borrowing from history, political science, law, legal philosophy, and gender theory.

More in detail, the following topics will be discussed:

- women and rights;
- equality and sexual preferences;
- rights in surrogacy arrangements;
- disability and rights;
- vulnerable subjects and groups;
- human dignity;
- conflicts of rights in a theoretical perspective.

METHODOLOGY

Each day two seminars will be held. On each day a specific topic will be discussed from various theoretical and practical perspectives, aiming at achieving an effective integration of methods and solutions. In order to encourage a proactive participation, the participants will have suggested and provided bibliography on the topic discussed in each seminar session.

WORKING LANGUAGES

The working language will be English.

APPLICANTS, CONDITIONS OF ADMISSION AND CERTIFICATE OF ATTENDANCE

As established by the *Regolamento per l'attivazione di Corsi Internazionali di Studi Avanzati Summer and Winter School* of the University of Palermo, the Course is open to students holding a 1st or 2nd cycle degrees (ita. *laurea triennale* or *laurea specialistica*), a first or second level Master degree, PhD

students, PhD's and researchers with an interest in the topic and able to orientate themselves in the subject matters of the courses. **No more than 30 applications will be accepted**, and at least 15 participants will be selected among applicants from other Italian or foreign Universities. Only in the case in which less than 15 people apply, more applications from the University of Palermo will be taken into consideration. The Course is open also to University students that have acquired a minimum of 120 CFU. However, no more than 10 current University students can be accepted to the Winter. The selection of the latter will be made on the basis of their CVs and letters of motivation. The Winter Course will not be held if there will be less than 15 applications.

Every applicant shall fill in the form here attached, adding his/her CV. If a selection will be necessary (if more than 30 applications will be received) the scientific committee will redact a list and a reserve list. Students from the reserve list will be contacted in the case in which students admitted in the list withdraw.

GENERAL INFORMATION AND FINAL CERTIFICATE

The Winter Course is composed of two different parts. In **the first part**, participants will have to study the reading material – theoretical and practical articles, court decisions, official reports – that will be provided through the website of the PhD program in “Human Rights: Evolution, Protection and Limits” at least two weeks before the beginning of the Course. **The second part** will see the participants engaged in lectures by speakers from Italian and foreign universities and in discussions and Q&A based on the lectures and on the reading material.

The second part of the Course will be held in Palermo, Italy, at the **Dipartimento di Giurisprudenza – Sezione “Diritto e Società” – Piazza Bologna 8**. As the program shows, lectures will be held from 9 a.m. to 4 p.m. Participants will have full access to the Law department (Dipartimento di Giurisprudenza) Library.

Students who will attend at least 90% of the seminar hours will receive a certificate, corresponding to 6 ECTS, after passing a test.

ENROLMENT AND FEES

Attached to this Call (on-line from December 1st. 2016), a model of the Application form can be found (this is in English, but it can be filled out also in French, Italian or Spanish).

The application should be sent (and received by **January 15**), jointly with a CV, a copy of the degrees obtained, a copy of a national ID, and a copy of the payment of registration fees (and, for current University students, a letter of motivation), to the following address:

Dipartimento di Giurisprudenza

Piazza Bologna, 8
90134 Palermo, Italy

(also write down on the outside of the envelop: “Whose Rights? Winter School”).

The application form, along with the documents above mentioned, can be sent, also, by e-mail at teresa.affatigato@unipa.it

The payment of **registration fees of 200,00€** includes the inscription to the Course, the reading material, the final certificate, and the insurance cover.

Students of the II. Level Master in *Legal Theory* (University of Frankfurt) are exempted from the registration fees.

The registration fees shall paid to the Università di Palermo bank account

IBAN: IT 09 A 02008 04682 000300004577

SWIFT/BIC code: UNCRITMMPAE

UNICREDIT S.p.A.

via Roma 185, Palermo, Italia.

Causal transfer: “Whose Rights? Winter Course, 13-17 february 2017 – director Proff. Feci-Pino-Starita”.

More information about the payment of pre-inscription fees and registration fees (in particular the payment procedure) will be found on these websites:

<https://www.unipa.it/dipartimenti/dipartimentogiurisprudenza/>

HOUSING AND MEALS

Participants not residing in Palermo can rent a **room** at the ERSU Palermo – Ente Regionale per il Diritto allo Studio Universitario, at very cheap rates. All participants will have access to **University canteens** (at very cheap rates).

For further information, please contact the **Sig.ra Teresa Affatigato** (teresa.affatigato@unipa.it)

DIRECTORS OF THE WINTER COURSE

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SCIENTIFIC COMMITTEE

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SCIENTIFIC BOARD

Maria Giulia Bernardini (Università di Ferrara); Marina D'Amelia (Roma); Pasquale De Sena (Università Cattolica - Milano); Francesca Di Pasquale (Netherlands Institute for War Documentation); Yasmine Ergas (Columbia University); Lorenzo Gradoni (Max Planck Institute for International, European and Regulatory Procedural Law – Lussemburgo); Francesca Ippolito (Università di Cagliari); José Juan Moreso (Universitat Pompeu Fabra, Barcelona); Anna Vanzan (Università di Milano); Gianfrancesco Zanetti (Università di Modena e Reggio Emilia).

Further information will be available on:

<https://www.unipa.it/dipartimenti/dipartimentogiurisprudenza/>

PROGRAMMA DEL WINTER COURSE (13-17 FEBBRAIO 2017)

Lunedì 13 febbraio 2017

- **10.00** Introduzione al corso
Isabel Trujillo, Simona Feci, Giorgio Pino, Massimo Starita
- **11.00-13.00**
Yasmine Ergas (Columbia University): "La maternità surrogata nel pensiero femminista e nel discorso pubblico: il dibattito negli Stati Uniti "
- **14.00-16.00**
Marina D'Amelia (Roma): "La maternità surrogata nel pensiero femminista e nel discorso pubblico: il dibattito in Europa"

Martedì 14 febbraio 2017

- **10.00-12.00**
Anna Vanzan (Università di Milano): "Human Rights and Muslim Societies: between Neorientalism and Apology"
- **14.00-18.00**
libero

Mercoledì 15 febbraio 2017

- **10.00-12.00**
Gianfrancesco Zanetti (Università di Modena e Reggio Emilia): "Orientamento sessuale ed uguaglianza"
- **14.00-16.00**
Maria Giulia Bernardini (Università di Ferrara): "Disabilità e diritti"

Giovedì 16 febbraio 2017

- **10.00-12.00**
Pasquale De Sena (Università Cattolica - Milano): "Human Rights and HumanDignity"
- **14.00-18.00**
Lorenzo Gradoni (Max Planck Institute for International, European and Regulatory Procedural Law - Lussemburgo): "International Legal Personhood and Rights in the Global Order".

Venerdì 17 febbraio 2017

- **10.00-12.00**
José Juan Moreso (Universitat Pompeu Fabra, Barcelona): "Moral Complications and Legal Structures"
- **14.00-16.00**
Francesca Ippolito (Università di Cagliari): "The concept of Vulnerability in European Law"

**WINTER COURSE
Whose Rights?
Palermo 13-17 febbraio 2017**

To the Director of the Dipartimento di Giurisprudenza
Address: Piazza Bologni, 8 - 90144 PALERMO, Italy

I, the undersigned (First name) _____ (Family name) _____, born
on (DD/MM/YY) ____/____/____ in (Town, State) _____
resident in (Town, State) _____, having obtained (title of the
degree)/ enrolled in the last year of a 1st/2nd level Master degree in (title of the master course)

HEREBY APPLY

to the WINTER COURSE **Whose Rights?** which will be held in Palermo, Italy from 13 to 17 february 2017.

Documents attached:

- curriculum vitae et studiorum;
 - copy of the degrees obtained or of the certificate of enrollment in the last year of a 1st/2nd level Master degree (for undergraduate students: an auto-certificate of having obtained at least 120 CFU and a letter of motivation);
 - copy of a valid National ID or Passport;
 - copy of the receipt for payment of the inscription fee amounting to 200,00 EUR.
- Please indicate if you need to stay at the university residences ERSU.

Date and signature
