



UNIVERSITÀ
DEGLI STUDI
DI PALERMO

DIPARTIMENTO DI GIURISPRUDENZA

Direttore – Prof. Aldo Schiavello

Dipartimento di Giurisprudenza
Dottorato di ricerca in 'Diritti Umani: Evoluzione, Tutela e Limiti'
Master de Argumentación Jurídica, Universidad de Alicante

Summer Course
Human Rights in Courts
Palermo 26 – 30 June 2017

The PhD Program on "Human Rights" of the University of Palermo and the Master in Legal Reasoning of the University of Alicante jointly organise the Summer Course on **Human Rights in Courts** (hereinafter: Summer Course).

INTRODUCTION – KEY ISSUES

The protection of human rights in courts is generally considered as the cornerstone of the systems put in place for their safeguard. The central aim of the Summer Course is to investigate the characteristics, the nature and the limits of the judicial practice of human rights at the domestic, international and sovranational level. The approach will be multi-disciplinary and cross-cultural.

The understanding of the functioning of the different systems of legal protection of human rights through the regional courts in America, Europe and Africa is one of the main topics of the Summer Course. In particular, the analysis will dwell on the jurisprudence of the European Court of Human Rights, the leading jurisdictional organ, which oversees the implementation of the European Convention on Human Rights in the 47 Member States of the Council of Europe (27 of which are also Member States of the European Union).

Specific attention will be dedicated to the due process of law and on the way the courts have interpreted this cluster of guarantees and rights. The question of constraining and regulating the huge power of adjudication, in order for it to function as a guarantee for human rights, entails the analysis of the theories on the powers of the judge; the nature of the adjudication; the relationships between the courts and the society at large, as well as the risks of encroachments by political and economic powers.

The interpretation and justification of human rights in courts is a core issue of the Summer Course. The analysis will focus on both classical and cutting-edge topics concerning legal interpretation and argumentation, as for instance the role of emotions in the interpretation of human rights and the judicial interpretation of a fundamental characteristic of human rights, i.e. their inalienability.

The Summer Course will discuss the challenges of the justiciability of human rights in conflict zones or in countries whose judicial system appears to be particularly weak.

OBJECTIVES AND TOPICS

The protection of human rights in courts will be examined from a theoretical perspective coupled with the analysis and comparison of the practice of human rights in domestic, regional and international courts of human rights.

The following issues will be addressed:

(1) Human rights in the judicial proceedings. The due process of law provides essential means for the protection of any human rights through judicial proceedings. The guarantees that constitute the due process of law are also fundamental rights in themselves. The analysis will focus in particular on the rights of defence and the equality of arms in the jurisprudence of the European Court of Human Rights.

(2) The challenges of human rights protection in courts. Knowledge and availability of economically affordable judicial remedies is one of the major challenges to human rights today. In this respect, the problems of mature constitutional democracies appear to be different from those experienced in different



contexts. The constraints of admissibility criteria may also constitute a strong limit to the protection of human rights. The analysis will address the main problems of access to justice at the different levels: domestic, sovranational and international. The examination of methods of resolving disputes other than by means of adjudication will be undertaken, in order to investigate whether alternative dispute resolution (ADR) represent adequate means for protecting human rights. In particular, the problem is whether and to what extent human rights can be negotiated, and if mediation is more suitable than litigation in order to protect at least some specific human rights.

(3) The judge and the adjudication. The question of the nature, characteristics and limits of adjudication and of the role of the judge will be analysed from a cross-cultural perspective. The theories on judicial discretion will be presented and discussed. The main challenges to impartiality, posed by political and economic powers, will be investigated.

(4) Interpretation and argumentation. A discussion of the role that empathy should play in the interpretation of human rights provided by the Constitutions will be complemented by the presentation of a new theoretical perspective on the inalienability of rights. An analysis of the uses of the comparative argument in legal reasoning will be presented and discussed.

(5) The protection of human rights by International Courts. The link between the International Courts and the development of international human rights law will be examined, together with the predicaments of international courts in adjudicating gross violations of human rights such as war crimes and genocide. A thorough comparison of the functioning, powers, limits, composition and jurisprudence by international Courts which oversee the implementation of the regional agreements for the protection of human rights in Europe, Africa and America will be undertaken. The Summer School will host a Roundtable where the different perspectives of each international court will be compared and contrasted.

METHODOLOGY

Each day two or three 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, and to favour the connection between theory and practice of human rights, the participants will be engaged in a workshop on the topic discussed during the seminar session, with the support of the suggested and provided bibliography.

WORKING LANGUAGES

The working languages will be English, Spanish and Italian, according to the speakers' preferences and the characteristics of the audience.

APPLICANTS, CONDITIONS FOR ADMISSION AND CERTIFICATE OF ATTENDANCE

As provided 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 Master degree, Ph.D. students, Ph.D.'s and researchers who are interested in the subjects, and have a good background knowledge of the topics discussed in the course. **No more than 30 applications will be accepted.** Among them, at least 15 participants will be selected among applicants from other Italian or foreign Universities. Only if less than 15 people apply, more applications from the University of Palermo will be considered. The Course is open also to undergraduate students enrolled in Italian Universities, and who are working on their final dissertations, at the end of their degree. However, no more than 10 undergraduate students will be accepted to the Summer Course. The selection of those candidates will be based on their CV and motivation letter. The minimum number to activate the Summer Course is 15 candidates. Every candidate must fill in the attached form and attach their CV to their application. The selection of candidates will be necessary if more than 30 (thirty) applications have been received, and it will be based on the candidates' CVs and letters of motivation. The scientific committee will prepare a waiting list. In case admitted students withdraw, students in the waiting list



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will be admitted in their place.

GENERAL INFORMATION AND FINAL CERTIFICATE

The Summer Course is composed of two different parts. In **the first part**, participants will have to study the reading material – articles adopting both a theoretical and practical approach, court decisions, official reports – that will be uploaded on the website of the Ph.D. program in “Human Rights” 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 materials.

The second part of the Course will be held in Palermo, Italy, at the **Dipartimento di Giurisprudenza – Sezione “Diritto e Società” – Piazza Bologni 8, aula dottorato Diritti Umani, second floor**. Lectures will be held from 9 a.m. to 7 p.m.

Students will have full and free access to the library of the Department of Law. The students who will attend at least 90% of the seminar hours will receive a certificate, corresponding to 6 ECTS, after passing a test. If participants are willing to use the Wi-Fi network of the University, they must request access in writing at least two weeks before the beginning of the Summer Course.

The Summer Course is interdisciplinary.

ENROLMENT AND FEES

Prospective participants will find the Application form attached to this Call. Applicants can fill in the Application form in English, French, Italian or Spanish according to their preferences.

The application should be sent jointly with a CV, a copy of the degrees certificates, a copy of a valid ID, and the proof payment of the registration fees (and, for undergraduates, lawyers and members of the Legal Clinic of the University of Palermo, a letter of motivation). The application, together with the supporting documents, must be received by the 1st of May 2017. Master students must communicate their participation before the 15th of April 2017.

Prospective candidates should send their application to the following address:

Dipartimento di Giurisprudenza

Piazza Bologni, 8

90134 Palermo, Italy

Please write down on the outside of the envelope: "Human Rights in Courts Summer Course". **Alternatively, please send the application form, along with the documents mentioned above via e-mail at the following address:** 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 *Global Rule of Law and Constitutional Democracy* (University of Genoa) and the students enrolled in a Master at the *European Academy in Legal Theory* (University of Frankfurt) may enrol in the Summer Course at a discounted rate of **€ 150,00**.

Students of the Master in *Argumentación Jurídica* (Università di Alicante) are exempted.

Lawyers admitted to attend the Workshop on 27 June 2017 must pay **€ 25,00** to enrol.

Students, trainees and voluntary caseworkers of the Legal Clinic for Human Rights are exempted.

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

IBAN: IT 09 A 02008 04682

000300004577 SWIFT/BIC code:

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Causal transfer: “Human Rights in Court 26-30 giugno 2016”

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

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

HOUSING AND MEALS

Participants who are not residents 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** (offering meals at very cheap rates).

For further information on housing and meals, please contact Ms. **Teresa Affatigato** (teresa.affatigato@unipa.it)

CONTACTS

For further information on the Summer Course, please contact:

Dr. Elena Consiglio (elena.consiglio@unipa.it)

DIRECTOR OF THE SUMMER COURSE

Prof. Isabel Trujillo

Università di Palermo

Dipartimento di Giurisprudenza

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SCIENTIFIC COMMITTEE

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SUMMER COURSE SECRETARY

Mr. Rosario Castiglione

Dipartimento di Giurisprudenza



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SCIENTIFIC BOARD

Isabel Trujillo (University of Palermo); Andrea Saccucci (Second University of Naples); Daria Coppa (University of Palermo); Elena Consiglio (University of Palermo); Sarah Summers (University of Zurich); Pasquale Pistone (IBFF/WU Vienna - University of Salerno); Prakash Shah (Queen Mary University of London); Suliman M.K. Ibrahim (University of Leiden); Anton Giulio Lana (Lawyer, President of the 'Unione forense per la tutela dei diritti umani'); Federico Di Salvo (Jurist at the Registry of the European Court of Human Rights); Giulia Borgna (tutor for Italy of the course on the admissibility conditions of the programme HELP of the Council of Europe); Isabel Lifante Vidal (University of Alicante); Lucia Corso (University of Enna 'Kore'); Giorgio Maniaci (University of Palermo); Augusto Antonio Cancado Trindade (Judge of the International Court of Justice and former President of the Inter-American Court of Human Rights); Eva Pils (King's College London); Serena Romano (University of Palermo); Giorgio Gaja (Professor Emeritus of International Law, Member of the UN International Law Commission, former ad hoc judge of the International Court of Justice); Sylvain Ore' (President of the African Court of Human and Peoples' Rights); Fatsah Ouguergouz (Judge of the African Court of Human and Peoples' Rights); William Shabas (Middlesex University London).

ORGANISATION

Mr. Giuseppe Rocché

Further information can be found at:

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



SUMMER COURSE 'HUMAN RIGHTS IN COURTS'

26 June 2017

CHAIR: ELENA CONSIGLIO

9:00 ISABEL TRUJILLO, *University of Palermo* – **Welcome and Opening remarks**

9:30 ANDREA SACCUCCI, *Second University of Naples* – **Access to Constitutional Remedies and International Human Rights Law**

11:30 SARAH SUMMERS, *University of Zurich* – **The Equality of Arms in the Jurisprudence of the European Court of Human Rights**

15:30 SERENA ROMANO, *University of Palermo* – **The Comparative Reasoning in Legal Adjudication**

27 June 2017

CHAIR: ELENA CONSIGLIO

9:00 PASQUALE PISTONE, *IBFF/WU Vienna – University of Salerno* – **Alternative Dispute Resolution Mechanisms in Tax Matters and the Protection of Human Rights**

11:00 SULIMAN M.K. IBRAHIM, *Van Vollenhoven Institute for Law, Governance and Development University of Leiden* – **Access to Justice in Conflict Zones: The Case of Libya**

15:00 **Workshop – The Admissibility Criteria of Individual Applications to the European Court of Human Rights: From Theory to Practice**

ANDREA SACCUCCI, *Second University of Naples*

ANTON GIULIO LANA, *Lawyer, President of the 'Unione forense per la tutela dei diritti umani'*

FEDERICO DI SALVO, *Jurist at the Registry of the European Court of Human Rights*

GIULIA BORGNA, *tutor for Italy of the course on the admissibility conditions of the programme HELP of the Council of Europe.*

28 June 2017

CHAIR: ANDREA SACCUCCI

9:00 ISABEL LIFANTE VIDAL, *University of Alicante* – **Dos Conceptos de Discrecionalidad**

Juridical

11:00 ELENA CONSIGLIO, *University of Palermo* – **Alternative Models of Adjudication: a**

Confucian appraisal of the coherence theory.

15:30 GIORGIO MANIACI, *University of Palermo* – **Non-Disposability of Fundamental Rights: A**

Problem of Interpretation

Via Maqueda, 172 – Direzione e amministrazione P.zza Bologni, 8 - 90134 PALERMO

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Sito web: <http://www.unipa.it/dipartimenti/dipartimentogiurisprudenza>



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29 June 2017

CHAIR: ELENA CONSIGLIO

9:00 EVA PILS, *King's College of London* – **When Human Rights Don't Go to Court. Mediation and Dispute Resolution in China**

11:00 LUCIA CORSO, *University of Enna 'Kore'* – **Should Empathy Play Any Role in the Interpretation of Constitutional Rights?**

15:30 PRAKASH SHAH, *Queen Mary University of London* – **Access to Justice in Developing Countries: The Case of India**

30 June 2017

CHAIR: ANDREA SACCUCCI

9:00 AUGUSTO ANTONIO CANCADO TRINDADE, *Judge of the International Court of Justice and former President of the Inter-American Court of Human Rights* – **The Role of International Courts in Protecting Human Rights (tbc)**

11:00 ROUNDTABLE

GIORGIO GAJA, *Professor Emeritus of International Law, Member of the UN International Law Commission, former ad hoc judge of the International Court of Justice* – **The Perspective of the International Court of Justice (tbc)**

SYLVAIN ORE', *President of the African Court of Human and Peoples' Rights* – **The African Perspective (tbc)**

FATSAH OUGUERGOUZ, *Judge of the African Court of Human and Peoples' Rights* – **The African Perspective (tbc)**

WILLIAM SHABAS, *Middlesex University London* – **The Perspective of the International Criminal Justice**