



Academic Year 2025-2026

Syllabus

Fundamental Rights

CFU 6

Prof. Andrea Buratti – Prof. Pierre Brunet

Course Description

This course explores the historical, theoretical, and comparative foundations of fundamental rights in national and supranational contexts. It examines definitions of rights between universalism and relativism, their legal recognition and protection mechanisms, and the most debated substantive challenges of our time. A focus is given to constitutional, supreme, and international courts, as well as non-judicial mechanisms of governance and protection.

Learning Objectives

Upon successful completion, students will be able to:

- Demonstrate knowledge of the historical, cultural, and legal frameworks of fundamental rights.
- Critically analyse relevant case law from national, regional, and international courts.
- Apply comparative and historical methods to contemporary rights-based debates.
- Communicate legal arguments effectively using appropriate academic and legal English.
- Develop independent judgement in evaluating conflicts of rights and balancing solutions.

Teaching Method

The course emphasizes a case-law based approach. Students are required to complete compulsory readings before each session and actively engage in class discussions, presentations, and debates.

Schedule of Topics

Section 1	Theoretical issues in fundamental rights discourse. Universalism and particularism in the concept of fundamental rights: Human dignity under discussion.	
Section 2	Patterns of balancing fundamental rights. Comparing the European and the American constitutional traditions. Selected cases.	
Section 3	Fundamental rights in the digital ecosystem. Comparing free speech in the web.	
Section 4	International protection of fundamental rights: from the UN Declaration to International Criminal Justice.	
Section 5	The regional or quasi «supranational» scenario:	
Prof. Brunet	(i)	European Convention on Human Rights (ECHR) & ECtHR
	(ii)	Inter-American system (IACHR & Court)
	(iii)	African Charter on Human and Peoples' Rights (Banjul Charter)

Prior knowledge

Students must own a basic knowledge of constitutional law and public international law. See the volume: Buratti, *Western Constitutionalism*, Springer-Giappichelli, 3rd ed., 2024.

Assessment

Assessment methodology depends on whether the student is an “attending student” or a “non-attending student”.

An “attending student” is a student who (i) is present at least to 80% of classes, **and** (ii) complies with all of the assignments (prior readings, preparation of classes, essays, etc.) required by the teacher throughout the classes.

For Attending students:

Written final exam on class topics and materials

For Non-Attending students:

Oral final exam based on the compulsory readings (see detailed list)

LIST OF COMPULSORY READING MATERIALS FOR THE ORAL EXAM OF NON-ATTENDING STUDENTS

Section 1

Compulsory Reading:

1. Habermas, *The Concept of Human Dignity and the Realistic Utopia of Human Rights*, in *Metaphilosophy*, 2010.
2. McCrudden, *Human Dignity and Judicial Interpretation of Human Rights*, in *European Journal of International Law*, 2008 (available at: <http://ejil.org/pdfs/19/4/1658.pdf>)

Section 2

In order to study this section, students have to refresh their knowledge on post WW2 European constitutionalism. A useful tool is A. Buratti, *Western Constitutionalism*, Springer, 3rd edition, with special attention to Chapter 6 and 7.

Compulsory Readings:

3. Buratti, *The Place of History in Fundamental Rights Adjudication*, Tor Vergata Univ. Press, 2026, Part 1 and 2. online open-access

Section 3

Compulsory reading:

4. Pollicino, *Judicial Protection of Fundamental Rights on the Internet: A Road Towards Digital Constitutionalism?* Hart Publishing, 2021

Section 4

Compulsory readings:

5. Tomushat, *The Legacy of Nuremberg*, in *Journal of International Criminal Justice*, 2006
6. Jessberger – Geneuss, *The Many Faces of the International Criminal Court*, in *Journal of International Criminal Justice*, 2004

Section 5

In order to study this section, students find introductory explanation on the ECHR in A. Buratti, *Western Constitutionalism*, Springer, Chapter 7.

Compulsory readings:

7. Roberts, *Alternative Approaches to Human Rights. The Disparate Historical Paths of the European, Inter-American and African Regional Human Rights Systems*, Cambridge UP, 2023

Erasmus and international students

Erasmus and international students are welcome. They must contact the secretary of the Global Governance program in order to register to the course. Please take note of the prior knowledge required for the participation to the course.

Office hours

Prof. Buratti receives students on appointment: burattiandrea@hotmail.com in the School of Law (Building D, via Cracovia 50).

NOTE: If you are an **Erasmus or a non Global Governance student** who would like to attend one or more courses in the Global Governance programme, please be aware that, **before enrolling in the course**, you should have read the code of conduct and the procedural rules characterizing our programme. We assume that, if you enrol in the course, **you have read and accepted all Global Governance values and rules**. Notice that attendance is expected from the very first lesson and you need to attend at least 80% of the course to be considered an attending student.

Description of the methods and criteria for testing learning

The examination assesses the student's overall preparation, ability to integrate the knowledge of the different parts of the program, consequentiality of reasoning, analytical ability and clarity of presentation, in accordance with the Dublin descriptors (1. knowledge and understanding; 2. applying knowledge and understanding; 3. making judgements; 4. learning skills; 5. communication skills).

The examination will be graded according to the following criteria:

Unsuitable: important deficiencies and/or inaccuracies in the knowledge and understanding of the topics; the topics are exposed in an incoherent manner and with inappropriate language.

18-20: barely sufficient knowledge and understanding of most of the topics, with some missing items; sufficient capacity for analysis; the topics are sometimes exposed in an inconsistent manner and with inappropriate/technical language;

21-23: basic knowledge and understanding of most of the topics; ability to analyze and synthesize correctly with sufficiently coherent logical argumentation, with possibly some inaccuracy in the technical language.

24-26: good knowledge and understanding of most of the topics; good analytical and synthetic skills with rigorously expressed arguments, though with possibly a few inaccuracies in the technical language.

27-29: complete knowledge and understanding of the topics; good capacity for analysis and synthesis. Arguments presented in a rigorous manner and with appropriate/technical language, with only minor inaccuracies.

30-30L: very good level of knowledge and thorough understanding of topics. Excellent analytical and synthetic skills and independent judgement. Arguments expressed in an original manner and in appropriate technical language.
