



Academic Year 2021-2022
Syllabus
Legal Traditions and Comparative Law
CFU 12
Prof. M. Papa, R. Cardilli, A. Buratti

Course Description

The course provides an introduction to the study of law in the global scenario. Through a historical and comparative approach, the course deals with the (i) legal systems of the World and the system of sources of law, (ii) the private and public law fundamental institutions in the World, (iii) the Roman foundations of legal institutions, (iv) the fundamental concepts of law and their historical development, (v) constitutionalism in the framework of the Nation State and the constitutional framework of contemporary democratic political systems.

The course is divided into three modules:

- **1st Module**, Introduction to the legal systems, Prof. Massimo Papa, 4 CFU
- **2nd Module**, Harmonization of Law and Legal History, Prof. Riccardo Cardilli, 4 CFU
- **3rd Module**, Comparative Constitutional law, Prof. Andrea Buratti, 4 CFU

1st Module

Introduction to the legal systems (Prof. M. Papa)

The course will provide an introduction to the principles, categories, institutions and vocabulary of law. The comparative approach is aimed at providing awareness of the diversity existing in the legal traditions of the World, as well as of the relationships existing between legal systems, history and culture.

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| Topic 1 | Legal systems and legal traditions in the World |
| Topic 2 | Private Law and Public Law |
| Topic 3 | Sources of law |
| Topic 4 | The Civil Law tradition |
| Topic 5 | The Common Law tradition |
| Topic 6 | The Islamic Law tradition |

Teaching Method

Lectures, analyses of materials (case law and historical documents).

Textbook and Materials

1. R. Salvi, G. Garzone, *Legal English*, Egea, 2007

2nd Module

Harmonization of law and legal history (Prof. R. Cardilli)

The course provides an introduction to the study of Harmonization of Law; the role of Roman Law in the European and World legal systems as a fundamental value of the European legal tradition. Fundamental Ideas as Equality, Liberty and Democracy, contract and obligation, property and their historical development will be analyzed.

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| Topic 1 | Law and Globalization: Historical Universal Models vs. Nation State-Law. |
| Topic 2 | Harmonization of Law, Roman Law and Modern Legal Systems. |
| Topic 3 | Liberty and Democracy of Ancients vs. Liberty and Democracy of Moderns. |
| Topic 4 | Community Values vs. Legal Individualism: Towards a New Paradigm of Legal Thinking. |

Teaching Method

Lectures and analyses of materials (case law and historical documents).

Textbook and Materials

2. P. Stein, *Roman Law in the European history*, Cambridge, 1999.

3rd Module

Comparative Constitutional Law (Prof. A. Buratti)

The course analyzes the origins, the goals and the development of western constitutionalism, as well as the structure and the transformations of constitutional law in the western World.

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| Topic 1 | Theoretical Roots of Modern Constitutionalism. Ancient and modern constitutionalism. |
| Topic 2 | English Constitutionalism: the relationship with the Common law legal system, the claim for separation of powers and fundamental rights. |
| Topic 3 | The Rise of Constitutionalism in the Age of Revolutions: French and American Revolutions constitutionalism, common patterns and different paths |
| Topic 4 | American Constitution: constitutional rigidity, the judicial review of the legislation, federalism. The process of democratization. |
| Topic 5 | Constitution and State in 19th Century: liberal constitutionalism in Europe. |
| Topic 6 | American contemporary constitutionalism: Congress and the Presidency, transformations in the interpretation of federalism and constitutional rights (the role of the Supreme Court). |
| Topic 7 | European Constitutions in Post-Second World War: fundamental rights, forms of government, regionalism, sources of law. |
| Topic 8 | Worldwide expansion of Western Constitutionalism. |
| Topic 9 | Open Constitutional State: the development of the European Union legal order and its institutions. |

Teaching Method

The main aim of the course is to develop and improve student's capability to use the methods of comparative analyses in Constitutional Law. Concepts and expertise given by the course will develop student's legal knowledge, and will provide them with the skill to grasp other legal issues.

The course asks students to learn a legal lexicon. Students will have the possibility to have an open and interactive exchange of views with the Professor, and will be required to read documents and legal materials to be discussed together with the Professor and other colleagues.

Textbook and Materials

3. Andrea Buratti, *Western Constitutionalism. History, Institutions, Comparative Law*, Second Edition, Springer, 2018.
 4. *Legal Glossary*. Notes provided by the teacher.
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Assessment:

Final: The final mark for the Exam of Legal Traditions and Comparative Law is the average of the grades obtained in the three Modules: it will be determined on the date of the final exam. For the dates of the Final Exam, see programme website: Exams page.

Students who pass only one or two out of the three modules within the first 2 dates of the Winter session, can complete the exam in Fall (September) session.

PLEASE TAKE CLEAR NOTE: THIS IS THE ONLY GLOBAL GOVERNANCE EXAM WHERE YOU WILL BE ALLOWED NOT TO NECESSARILY PASS ALL THE DIFFERENT PARTS OF THE EXAM IN THE SAME (FIRST OR SECOND) EXAM SESSION.

Grades obtained remain valid or can be rejected, in which case the module exam will have to be retaken in full. The grades obtained in the modules are not valid beyond the Fall (September) Session.

First Module: Written Exam to be held during the mid-term week. Students who don't pass the exam will be able to redo it only once in the Winter session (February) and in the Fall session.

Second Module: A written mid-term Exam on Topics 1 and 2 of the Syllabus will take place; Final written-oral pre-exam will take place after the end of the classes. Students who won't pass or take the mid-term exam will take the whole exam at the moment of the Final pre-exam. Students who don't pass the pre-exam will take the exam at the moment of the Final.

Third Module: A written mid-term Exam will be held during the mid-term week, covering the topics discussed in class. A final oral Exam will be held in the date of the Final exam. Students who won't pass the mid-term Exam will retake the whole Exam (written and oral) at the moment of the Final. Please take note that mandatory tutorials will be organized, for students who won't pass the mid-term Exam.

Non-attending students: Attendance and active participation to the classes is strongly requested in this course. Students who do not attend at least 80% of the classes will be considered as non-attending. Non-attending students must contact Professor Andrea Buratti (see Office hours) for (i) assignments, (i) teaching materials and (iii) assessment methods.

Erasmus Students: Erasmus students are welcome in this course. As in all the Global Governance programme courses, Erasmus students are requested to contact the secretariat for the registration to the course. Please take note that dates for early Final-exams won't be considered.

Office hours

- Prof. Papa receives students on appointment (massimo.papa@uniroma2.it)
- Prof. Cardilli receives students on appointment (cardilli@uniroma2.it)
- Prof. Buratti receives students on appointment (burattiandrea@hotmail.com)