

**Scuola Superiore  
Meridionale**

**PhD course in Law and Organizational Studies for People with**

**Disability a.y. 2023/24**

Course: 'Protection of human rights: beginning and end of life issues'

Prof.ssa Barbara Salvatore  
[barbara.salvatore@unina.it](mailto:barbara.salvatore@unina.it)

### **Course description**

The course is addressed to doctoral students and first year undergraduate students, coming from any research area of the SSM. The final evaluation will take into account the students' different educational level.

The course aims to investigate critically the legal and private aspects of life sciences and human health care. Starting from the identification of the individual's fundamental rights in its physical and moral dimension will be analyzed the most current biolaw issues, especially when conditions of vulnerability are identified.

The traditional civil protection institutes will be addressed, recognizing and enhancing the space of decision-making autonomy of individuals and balancing the needs of health protection of the parties involved, even in situations of particular vulnerability, with the need to guarantee self-determination in existential choices.

The lessons, after a preliminary framing of the different cases that will gradually be examined, will focus on the analysis of practical cases, which will provide the starting point for critical reflection by students.

### **Aims**

At the end of the course, students will be able to:

- know and understand the individual's personality rights from an evolutionary perspective.
- understand new biolaw issues linked with technological progress.
- provide coherent and justified solutions from a legal point of view.

### **Learning methods**

- Classes will be based on discussions between the professor and students regarding the main issues arising from the background readings.
- All students are expected to actively participate in the debate, providing comments and raising questions on the issues discussed in class.
- Students will have to prepare a final presentation which has to examine in depth one of the aspects touched upon in the class. The work will be presented during the final class.

### Course material

The course material will consist of legal and jurisprudential text, book chapters and journal articles. In addition to the required readings listed for each lecture, further readings will be suggested during the classes covering specific topics in greater detail. Students who may have problems with materials retrieval can contact the teacher at the following email:

[barbara.salvatore@unina.it](mailto:barbara.salvatore@unina.it)

### Exam & Evaluation

Students will be evaluated based on their constructive participation in class and the final presentation.

### Final presentation

Doctoral students and first year undergraduate students will have to prepare a presentation which examines in depth one of the aspects touched upon in the class. The presentation can be delivered in power point format and will have to be discussed with the class during the final lesson.

### Detailed program

<b>Class 1</b> 17/11/2023 11:00-13:00 Aula 5 (studio)	<b>Fundamentals of Epistemology in Social Research: Legal Profiles (I)</b>
Mandatory readings	<ul style="list-style-type: none"><li>Grossi P., Prima lezione di diritto, Editori Laterza, 2003</li><li>Rodotà S., Il diritto di avere diritti, Editori Laterza, 2020 (cap. V Dal soggetto alla persona)</li></ul>
<b>Class 2</b> 24/11/2023 11:00-13:00 Aula 5 (Studio)	<b>Fundamentals of Epistemology in Social Research: Legal Profiles (II)</b>
Mandatory readings	<ul style="list-style-type: none"><li>Rodotà S., Il diritto di avere diritti, Editori Laterza, 2020 (cap. VI Homo dignus; cap. VII il diritto alla verità; IX il diritto all'esistenza; X Autodeterminazione)</li></ul>
<b>Class 3</b> 1/12/2023	<b>Legal subjectivity and the beginning of human life – Wrongful birth claims and compensation</b>

<b>11:00-13:00</b> Aula 5 (Studio)	
Mandatory readings	<ul style="list-style-type: none"> <li>• L. 194/1978</li> <li>• L. 40/2004</li> <li>• Cass. civ., n. 10741 del 11-5- 2009.</li> <li>• Court of Cassation no. 9700 of 3.5.2011</li> <li>• Court of Cassation no. 16754 of 2.10. 2012</li> <li>• Court of Cassation S. UN. N. 25767, 22 December 2015.</li> </ul>

<b>Class 4</b> <b>15/12/2023</b> <b>11:00-13:00</b> Aula 5 (Studio)	<b>Legal subjectivity and the beginning of human life – human embryos</b>
Mandatory readings	<ul style="list-style-type: none"> <li>• Constitutional Court no. 84, 13.4. 2016</li> <li>• European Court of Human Rights, 27-8-2015</li> <li>• Court of Justice C-34/10, 18 October 2011.</li> </ul>

<b>Class 5</b> <b>22/12/2023</b> <b>11:00-13:00</b> Aula 5 (Studio)	<b>Legal subjectivity and the beginning of human life – The legislation on medically assisted procreation</b>
Mandatory readings	<ul style="list-style-type: none"> <li>• Constitutional Court no. 161 del 24.7.2023</li> <li>• Constitutional Court no. 96, 5.6.2015</li> <li>• Constitutional Court no. 151, 8.5. 2009</li> <li>• Constitutional Court no. 97, 12.3. 2010</li> <li>• Constitutional Court no. 162, 10.6.2014.</li> </ul>

<b>Class 6</b> <b>12/1/2024</b> <b>11:00-13:00</b> Aula 5 (Studio)	<b>Legal subjectivity and the beginning of human life – The legislation on medically assisted procreation - Surrogacy</b>
Mandatory readings	<ul style="list-style-type: none"> <li>• European Court of Human Rights, 26 June 2015 (Mennesson v. France; Labassee v. France)</li> <li>• Court of Cassation no. 24001, 11.11.2014</li> <li>• European Court of Human Rights, 27.1.2015 Paradiso and Campanelli v. Italy</li> <li>• European Court of Human Rights, 24.1.2017 Paradiso and Campanelli v. Italy</li> <li>• Court of Cassation - SEZ. UN. 12193, 5.5.2019</li> <li>• Court of Cassation – SEZ: UN. no. 38162, 30.12.2022</li> <li>• Judgment of the Grand Chamber of the European Court of Human Rights, 10 April 2019</li> </ul>

<b>Class 7</b> <b>19/1/2024</b> <b>11:00-13:00</b> <b>Aula 5 (Studio)</b>	<b>Self-determination</b>
Mandatory readings	<ul style="list-style-type: none"> <li>• Rodotà S., Il diritto di avere diritti, Editori Laterza, 2020 (cap. XII Uomini e macchine; XIII Post- Umano)</li> </ul>

<b>Class 8</b> <b>26/1/2024</b> <b>11:00-13:00</b> <b>Aula 5 (studio)</b>	<b>Self-determination and end of life decision</b>
Mandatory readings	<ul style="list-style-type: none"> <li>• Charter of Fundamental Rights of the European Union, Strasbourg 12.12.2007</li> <li>• Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, Oviedo 4.4.1997</li> <li>• Constitutional Court no. 438, 23.12.2008</li> <li>• Law 219/2017</li> <li>• Court of Cassation no. 21748 of 16 October 2007</li> <li>• Constitutional Court no. 242, 22.11.2019.</li> </ul>

<b>Class 9</b> <b>2/2/2024</b> <b>11:00-13:00</b> <b>Aula 5 (Studio)</b>	<b>The importance of a vulnerable person's will in health choices</b>
Mandatory readings	<ul style="list-style-type: none"> <li>• B. Salvatore, Il minore e la persona incapace nella l. 219/2017 in Jus civile, 2020, 6, 1494 ss.</li> </ul>

<b>Class 10</b> <b>9/2/2024</b> <b>11:00-13:00</b> <b>Aula 5 (Studio)</b>	<b>Final presentation</b>
	Students will have to prepare a presentation which examines in depth one of the aspects touched upon in the class. The presentation can be delivered in power point format, and will have to be discussed with the class during the final lesson