

COMPARATIVE HUMAN RIGHTS LAW

Intitulé du cours / *Course title*

Discipline <i>Academic field</i>	Law, Constitutional, European and International law, Theory of Law, Political Science, Political philosophy
Enseignant <i>Teacher</i>	Aurélie Duffy-Meunier
Contact <i>E-mail address</i>	aurelie.duffy@univ-amu.fr
Niveau de formation <i>Academic level</i>	4th year
Volume horaire <i>Hours</i>	20h
Langue <i>Language</i>	English

Description du cours / *Course outline*

This course is designed to give a comparative and contextual analysis of the guarantees, content and challenges concerning Human Rights in civil law and common law countries especially in France, European countries (ex: Germany, Spain, Italy...), the United Kingdom and common law countries (USA, Canada, Australia, New-Zealand).

The course is based on an interactive presentation of Comparative Human Rights Law.

It will stress on the national and international developments of the different generations of Human Rights (Liberty, social rights, environmental rights), on the conciliation between different rights (ie: privacy and freedom of expression) and on the limitations of Human Rights in the context of terrorism, Brexit, Covid-19, new technologies and environmental challenges.

Objectifs pédagogiques du cours / *Course objectives*

Introduction to the fundamentals and challenges of Human Rights Law in a comparative perspective between civil law countries and common law countries.

The course will tackle the main procedural and substantive issues related to Human Rights in different countries.

It will stress on remedies (judicial review, recurso de amparo, *Question Prioritaire de constitutionnalité*...) and substantive human rights (the right to life, freedom of expression, privacy, equality...) to shed light and explain the diverging and converging trends between national protection and the fulfillment of international standards.

Constitution, Legislation and case studies will be used throughout the course, regarding situations in the United States, the United Kingdom, Australia, France, Germany, Italy...

Some debate and moot court may be organized if the number of students allows it.



Compétences acquises / Learning outcomes

Understanding the fundamentals and contextual issues of Human Rights Law in a comparative perspective as well as their national and global legal and democratic challenges.

Being able to discuss controversial issues and being able to defend a legal case.

Plan de cours par séance / Course content for each session

Introduction: The conceptions of Human Rights : History and Genealogy (civil law/common law; written/unwritten Constitutions; the role of European and international law)

Part 1 : The procedural dimension

- Common law and civil law remedies
- Constitutional law remedies
- Effectiveness of courts' decisions

Part 2: The substantive dimension

- Right to Liberty (Terrorism, Covid and Public health...)
- Privacy (From press intrusion to Mass surveillance)
- Right to life (Abortion, Euthanasia, Death Penalty...)
- Equality and Social rights (From the "sécurité sociale" to the Obamacare)
- Environmental Rights

Références bibliographiques / Bibliography

1. Mark Elliott, Kirsty Hughes, *Common Law Constitutional Rights*, Oxford, Hart Publishing, 2020.
2. Mads Andenas and Duncan Fairgrieve (ed.), *Courts and comparative law*, Oxford University Press, 2015.
3. Marko Novakovic, *Common law and civil law today : convergence and divergence*, Vernon Press, 2019.
4. John Bell, Mark Elliott, Jason NE Varuhas and Philip Murray, *Public law adjudication in common law systems : process and substance*, Hart Publishing, 2016
5. Rainer Arnold, José Ignacio Martínez-Estay, *Rule of Law, Human Rights and Judicial Control of Power : Some Reflections from National and International Law*, Springer International Publishing, 1st ed. 2017.
6. Michel Rosenfeld and Andrés Sajó, *The Oxford handbook of comparative constitutional law*, Oxford University Press, 2012
7. E. Zoller, *Introduction to Public Law : A comparative study*, 2011, Brill Nijhoff.

Mini CV de l'enseignant / Mini CV of the teacher

Aurélien Duffy-Meunier is a Professor of Public Law at Aix-Marseille University. She carried out her doctorate in Aix-Marseille University and was subsequently lecturer in Paris II – Panthéon Assas University from 2007 to 2017 and Professor at the University of Lorraine from 2017 to 2019.

