

Course Syllabus

Human Rights and New Technologies

Instructor Information:

Dr. Francesca Palmiotto is a postdoctoral researcher at Hertie School's Centre for Fundamental Rights working in the project "[AFAR: Algorithmic Fairness for Asylum Seekers and Refugees](#)". Francesca is also the co-founder and editor of "The Digital Constitutionalist", a blog dedicated to the analyses of digital technologies and law. Her research interests are related to law and tech, with a specific focus on the procedural fairness of automated decisions. She completed her PhD in Law at the European University Institute in 2023. Her doctoral dissertation examined the transformative impact of AI in criminal trials and advanced proposals to preserve procedural fairness in the automation age. She graduated magna cum laude from the Law Faculty University of Turin and obtained an LL.M. from the EUI. Notwithstanding her legal education, her interests and expertise are not confined to law. She attended a superior graduate school in 2018 with a thesis on "Mathematical Models Applied to Electoral Systems". She is currently involved in CLAUDETTE, a research project hosted at the EUI that aims to develop machine learning software for data protection enforcement, as well as in the project "Un-owned Data" at the Robert Schuman Center.

1. Course Contents and Learning Objectives

Course contents:

Artificial Intelligence (AI) and automated systems are increasingly used in different sectors of our everyday lives to evaluate individuals and manage work relations, to include or exclude citizens from social benefits, and even to take decisions with significant consequences. Do these technologies undermine human rights? Do they offer ways to enhance accountability and human rights protections? This course addresses these questions and explores the intersection of human rights and new technologies with a focus on the legal, social and policy challenges. In the first part, the course focuses on the issues raised by development and deployment with the right to data protection, privacy, free speech, non-discrimination, fair trial and right to good administration to assess the implications for individuals, courts, policymakers and society. The legal framework of reference will be the European Convention of Human Rights (ECHR). In the second part, the course discusses specific regulatory approaches to new technologies focusing on automated decision-making and AI systems. Through a combination of seminars, case studies, and group discussions, students will have the opportunity to reflect on how to ensure that new technologies comply with human rights. Finally, the course will also consider future challenges for the governance of new technologies with a special session held in the metaverse.

Main learning objectives:

This course aims to equip students with knowledge and understanding of the human rights challenges and harm posed by new technologies, how their deployment can be better regulated to mitigate these harms, and whether new technologies may be developed to enhance human rights protections.

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

- Understand the key human rights norms and instruments applicable to new technologies;
- Identify and write on critical legal questions raised by new technologies;
- Understand the legal concepts of discrimination and fairness applied to new technologies;

- Analytically and critically discuss present and future problems in a rapidly changing societal and technological context;
- Develop and support legal and policy arguments concerning new technologies and human rights, as well as weighting competing rights and interests at stake;
- Cooperate with other students, develop skills to investigate new technologies and improve public speaking skills

2. General Readings

- Land MK and Aronson JD (eds), *New Technologies for Human Rights Law and Practice* (Cambridge University Press 2018)
- Harris DJ and others, *Law of the European Convention on Human Rights* (5th edn, Oxford University Press 2023)
- Temperman J and others, *Artificial Intelligence and Human Rights* (Oxford University Press 2023)

3. Session Overview

Session	Session Title
1	Defining Human Rights, New Technologies and AI
2	Privacy and Data Protection
3	Freedom of Speech
4	Non-discrimination
5	Fair Trial and Right to Good Administration
6	Business and Human Rights
7	Regulating Automated Decision-Making
Mid-term Exam Week: no class	
8	Regulating Artificial Intelligence
9	Regulating Online Platforms
10	Governing the Metaverse
11	Investigating New Technologies
12	New technologies <i>for</i> Human Rights

4. Course Sessions and Readings

All course readings, case studies and materials can be accessed on the course Moodle page.

Session 1: Defining Human Rights, New Technologies and AI	
Required Readings	<ul style="list-style-type: none"> • Devillé R, Sergeysse N and Middag C, 'Basic Concepts of AI for Legal Scholars' in Cedric Vanleenhove and Jan De Bruyne (eds), <i>Artificial Intelligence and the Law</i> (Intersentia 2021) • Daelman C, 'AI through a Human Rights Lens. The Role of Human Rights in Fulfilling AI's Potential' in Cedric Vanleenhove and Jan De

	<p>Bruyne (eds), <i>Artificial Intelligence and the Law</i> (Intersentia 2021), pages 123-136 and 145-149</p> <ul style="list-style-type: none"> • Bryson JJ, 'Europe Is in Danger of Using the Wrong Definition of AI' (Wired)
Optional Readings	<ul style="list-style-type: none"> • Yeung K and Lodge M, 'Algorithmic Regulation: An Introduction' in Karen Yeung and Martin Lodge, <i>Algorithmic Regulation</i> (Oxford University Press 2019) • Russell SJ and Norvig P, <i>Artificial Intelligence: A Modern Approach</i> (Fourth edition, Pearson 2021), Introduction
Case Study	"He Would Still Be Here": Conversational Agents and Mental Health

Session 2: Privacy and Data Protection

Required Readings	<ul style="list-style-type: none"> • Getting the Future Right – Artificial Intelligence and Fundamental Rights' (Fundamental Rights Agency 2020), pp. 61-68 • Lynskey O, 'Deconstructing Data Protection: The "Added-Value" of a Right to Data Protection in the EU Legal Order' (2014) 63 <i>International & Comparative Law Quarterly</i> 569 • Kuner C and others, 'Machine Learning with Personal Data: Is Data Protection Law Smart Enough to Meet the Challenge?' (2017) 7 <i>International Data Privacy Law</i> 1
Optional Readings	<ul style="list-style-type: none"> • Hildebrandt M, 'Privacy As Protection of the Incomputable Self: From Agnostic to Agonistic Machine Learning' <i>Theoretical Inquiries of Law</i> 2019 • Wilsdon L, 'Carissa Véliz, <i>Privacy Is Power: Why and How You Should Take Back Control of Your Data</i>' (2022) 12 <i>International Data Privacy Law</i> 255
Case Study	SyRi: the "Invasive" Fraud Detection System

Session 3: Freedom of Speech

Required Readings	<ul style="list-style-type: none"> • Dias Oliva T, 'Content Moderation Technologies: Applying Human Rights Standards to Protect Freedom of Expression' (2020) 20 <i>Human Rights Law Review</i> 607 • Sander B, 'Freedom of Expression in the Age of Online Platforms: The Promise and Pitfalls of a Human Rights-Based Approach to Content Moderation' (2019) 43 <i>Fordham International Law Journal</i> 939 • Balkin JM, 'Free Speech in the Algorithmic Society: Big Data, Private Governance, and New School Speech Regulation Essays' (2017) 51 <i>U.C. Davis Law Review</i> 1149
Optional Readings	<ul style="list-style-type: none"> • Brkan M, 'Freedom of Expression and Artificial Intelligence: On Personalisation, Disinformation and (Lack Of) Horizontal Effect of the Charter' (17 March 2019)

	<ul style="list-style-type: none"> • Kolarevic E, 'The Influence of Artificial Intelligence on the Right to Freedom of Expression Review Article' (2022) 39 LAW - Theory and Practice 111
Case study	Whose freedom? The Delfi case

Session 4: Non Discrimination

Required Readings	<ul style="list-style-type: none"> • Wachter S, 'The Theory of Artificial Immutability: Protecting Algorithmic Groups under Anti-Discrimination Law' (Social Science Research Network 2022) • Adams-Prassl J, Binns R and Kelly-Lyth A, 'Directly Discriminatory Algorithms' n/a The Modern Law Review 2022 • Getting the Future Right – Artificial Intelligence and Fundamental Rights' (Fundamental Rights Agency 2020), pp. 68-75
Optional Readings	<ul style="list-style-type: none"> • Criado N and Such JM, 'Digital Discrimination' in Natalia Criado and Jose M Such, <i>Algorithmic Regulation</i> (Oxford University Press 2019)
Case study	The Amazon recruiting tool (that only hired white men)

Session 5: Fair Trial Rights and Right to Good Administration

Required Readings	<ul style="list-style-type: none"> • Getting the Future Right – Artificial Intelligence and Fundamental Rights' (Fundamental Rights Agency 2020), pp. 81-82 • Rudin C and Radin J, 'Why Are We Using Black Box Models in AI When We Don't Need To? A Lesson From an Explainable AI Competition' (2019) 1 Harvard Data Science Review • Busuioc M, 'Accountable Artificial Intelligence: Holding Algorithms to Account' [2020] Public Administration Review puar.13293 • Završnik A, 'Criminal Justice, Artificial Intelligence Systems, and Human Rights' (2020) 20 ERA Forum 567
Optional Readings	<ul style="list-style-type: none"> • Palmiotto F, 'The Impact of Algorithmic Opacity on Fair Trial Rights in Criminal Proceedings' in Martin Ebers and Marta Cantero Gamito (eds), <i>Algorithmic Governance and Governance of Algorithms</i> (Springer) • Ferguson AG, 'Big Data and Predictive Reasonable Suspicion' [2014] SSRN Electronic Journal, pp. 388-410 • Sachoulidou A, 'OK Google: Is (s)He Guilty?' (2022) 30 Journal of Contemporary European Studies 284
Case study	COMPAS: the opaque risk assessment software

Session 6: Human Rights and Business

Required Readings	<ul style="list-style-type: none"> • Lane L, 'Artificial Intelligence and Human Rights: Corporate Responsibility Under International Human Rights Law' in Aleš
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	<p>Završnik and Katja Simončič (eds), <i>Artificial Intelligence, Social Harms and Human Rights</i> (Springer International Publishing 2023)</p> <ul style="list-style-type: none"> • Crawford K, <i>The Atlas of AI: Power, Politics, and the Planetary Costs of Artificial Intelligence</i> (Yale University Press 2021), chapters 1 Earth (pp. 23-51) and 2 Labor (pp. 53-87) • Jørgensen RF, 'What Platforms Mean When They Talk About Human Rights' (2017) 9 <i>Policy & Internet</i> 280
Optional Readings	<ul style="list-style-type: none"> • Kriebitz A and Lütge C, 'Artificial Intelligence and Human Rights: A Business Ethical Assessment' (2020) 5 <i>Business and Human Rights Journal</i> 84 • Fasterling B, 'Human Rights Due Diligence as Risk Management: Social Risk Versus Human Rights Risk' (2017) 2 <i>Business and Human Rights Journal</i> 225
Case Study	The invisible workers behind Chat-GPT

Session 7: Regulating Automated Decision-Making

Required Readings	<ul style="list-style-type: none"> • Yeung K, 'Why Worry about Decision-Making by Machine?' in Karen Yeung, <i>Algorithmic Regulation</i> (Oxford University Press 2019) • Bygrave LA, 'Article 22 Automated Individual Decision-Making, Including Profiling' in Lee A Bygrave, <i>The EU General Data Protection Regulation (GDPR)</i> (Oxford University Press 2020) • Palmiotto F, "Is Credit Scoring An Automated Decision? – The Opinion Of The Ag Pikamäe In The Case C-634/21" <i>DigiCon</i>, 2023/3/17
Optional Readings	<ul style="list-style-type: none"> • Malgieri G, "'Just" Algorithms: Justification (Beyond Explanation) of Automated Decisions Under the General Data Protection Regulation' (2021) 1 <i>Law and Business</i> 16 • Richardson R, 'Defining and Demystifying Automated Decision Systems' (2021) 81 <i>Maryland Law Review</i> 785
Case Study	Schufa and the credit scoring algorithm

Session 8: Regulating Artificial Intelligence

Required Readings	<ul style="list-style-type: none"> • Hildebrandt M, 'The Artificial Intelligence of European Union Law' (2020) 21 <i>German Law Journal</i> 74 • Lohr JD, Maxwell WJ and Watts P, 'Legal Practitioners' Approach to Regulating AI Risks' in Jason D Lohr, Winston J Maxwell and Peter Watts, <i>Algorithmic Regulation</i> (Oxford University Press 2019) • Edwards L, 'Expert Opinion: Regulating AI in Europe' (Ada Lovelace Institute 2022)
Optional Readings	<ul style="list-style-type: none"> • Hildebrandt M, 'Algorithmic Regulation and the Rule of Law' (2018) 376 <i>Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences</i> 20170355

	<ul style="list-style-type: none"> Ebers M and others, 'The European Commission's Proposal for an Artificial Intelligence Act - A Critical Assessment by Members of the Robotics and AI Law Society (RAILS)' (2021) 4 J 589
Case study	Future-proof regulation? The case of Generative AI

Session 9: Regulating Online Platforms

Required Readings	<ul style="list-style-type: none"> De Gregorio G (ed), 'The Law of the Platforms', <i>Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society</i> (Cambridge University Press 2022) Klonick K, 'The New Governors: The People, Rules, and Processes Governing Online Speech' (2017) 131 Harvard Law Review 1598, Sections III and IV O'Regan C, 'Hate Speech Online: An (Intractable) Contemporary Challenge?' (2018) 71 Current Legal Problems 403
Optional Readings	<ul style="list-style-type: none"> Cauffman C and Goanta C, 'A New Order: The Digital Services Act and Consumer Protection' (2021) 12 European Journal of Risk Regulation 758 Lynskey O, 'Regulating "Platform Power"' SSRN (21 February 2017)
Case Study	From YouTube to the Paris Terrorist Attack

Session 10: Governing the Metaverse

Guest Speaker	Francisco De Abreu Duarte (EUI)
Required Readings	<ul style="list-style-type: none"> Parisi T, 'The Seven Rules of the Metaverse' (<i>Metaverses</i>, 23 October 2021) Floridi L, 'Metaverse: A Matter of Experience' (2022) 35 Philosophy & Technology 73 Hine E, 'Content Moderation in the Metaverse Could Be a New Frontier to Attack Freedom of Expression' (2023) 36 Philosophy & Technology 43
Optional Readings	<ul style="list-style-type: none"> Cluley G, 'Crime in the Metaverse - Police Face New Challenges in a Virtual World' (<i>BitDefender</i> 2022) Kasiyanto S and Kilinc MR, 'Legal Conundrums of the Metaverse' (2022) 1 Journal of Central Banking Law and Institutions

Session 11: Investigating New Technologies

Guest Speaker	Fabio Chiusi (Algorithm Watch)
Required Readings	<ul style="list-style-type: none"> Automating Society Report 2020
Optional Readings	<ul style="list-style-type: none"> 'Inside the Suspicion Machine' (<i>Wired</i> 2023)

Session 12: New Technologies *for* Human Rights

Required Readings	<ul style="list-style-type: none">• Aronson JD and Land MK (eds), 'Technology and Human Rights Enforcement', <i>New Technologies for Human Rights Law and Practice</i> (Cambridge University Press 2018)• Sniderman AS and Hanis M, 'Opinion Drones for Human Rights' <i>The New York Times</i> (31 January 2012)
Optional Readings	Lippi M and others, 'CLAUDETTE: An Automated Detector of Potentially Unfair Clauses in Online Terms of Service' (2019) 27 <i>Artificial Intelligence and Law</i> 117