POS 789 Human Rights (Elective; 4 credits)

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Class: Wednesday

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Course Description

This course examines the legal, political, and social dimensions of the modern human rights movement, its relationship to International Criminal Law, International Humanitarian Law and International Law as a whole and its implications for international affairs. It provides both an introduction to basic human rights philosophy, principles, instruments, and institutions, and an overview of several current issues and debates in the field. The course also seeks to analyze the ways in which allegations of human rights violations are dealt with and to expose some of the limitations in the architecture of the international system. Case studies will be used to illustrate contemporary debates regarding hierarchy among rights, conflicts between individual rights and societal priorities, human rights in single-party states, rights and transitions to democracy, amnesty for human rights violations, and the linkage between human rights and other national interests.

Objectives

The goal of this course is to help students understand the legal protection of human rights around the world. This will include attention to both the substantive content of human rights norms embodied in treaties and customary international law as well as the procedural and administrative mechanisms associated with the protection of human rights. In particular students will be exposed to the difficulty of legal negotiation between differing cultural norms and systems that often arise within the context of human rights, their meaning and content. The course will emphasize critical thinking, the development of analytic skills and the use of applied logic.

By the end of the course, students should be able to:
- Identify internationally recognized substantive human rights
- Appreciate the emergence of potentially new human rights standards
- Understand and articulate arguments for and against contested human rights
Situate human rights within the context of international law

**Evaluation Criteria**

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<th>Component</th>
<th>Percentage</th>
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<td>Class participation</td>
<td>30%</td>
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<td>Case study paper (2 @ 30%)</td>
<td>60%</td>
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<td>Paper presentations/discussion-leading (2 @ 5%)</td>
<td>10%</td>
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You are expected to complete *all* readings, attend *all* classes, participate meaningfully in class discussions, and keep up with significant human rights controversies. *Do not let yourself fall behind in the readings and do not miss class.* Any unexcused absence *will* affect your final grade.

**Class Participation**

The class will be run as a seminar. Participation will be evaluated based on whether you voluntarily pose and respond to questions in each class session, demonstrate that you have read and thought through the assigned readings (due on the date for which they are listed), and listen respectfully to what your peers say. All students must come to every class prepared to engage critically with both the week’s readings and with their classmates’ oral presentations.

**Case Study Papers**

All students will present and submit two case study papers on topics of their choice. The topics must be selected and scheduled to fit within one of the thematic or areas of discussions during the course (either using the assigned “treaty” or general topic assigned for that class.) By the end of week two, students will sign up for topics/classes that they are interested in presenting on.

A case study paper will include: (1) a fact pattern illustrating a conflict over human rights protections; (2) the provisions of any treaty or convention applicable to the topic; (3) a brief outline or summary of the key arguments for and against the application of human rights protection to that fact pattern; and (4) citation of sources used. The goal of the paper is to demonstrate a command of the topic and the ability to advocate for or against a particular interpretation, so extensive research is not required. Indeed, where appropriate, the paper can be based on the assigned readings.

Each paper must be approx. 3,000 words and include a case study for use by the class whose fact pattern is complex enough to demonstrate a command of that week’s topic and offers an opportunity for constructive debate between two or more positions favoring or opposing the recognition of a particular fact pattern as a protected human right. Where the case requires reference to a specific treaty or convention or other outside resource, you will post a copy of that reading to Blackboard no later than one week before your class presentation.

Fact patterns can be taken from articles or sources from outside of the course readings (with proper attribution and with a copy of the source provided to the instructor) but they must offer grounds for debate.

Assignments for each week will be allocated during the second class. If more than one student is presenting a paper in a given week, those presenting *must* coordinate in advance, to be sure their foci (the questions or claims on which they center the case studies they examine) are different—and ideally complementary—rather than overly similar.
These papers will be presented to the class on the day we discuss those readings. Bring copies of the fact pattern to be shared with all of the other students and the instructor. The class will be divided up into two or more teams, which you will assign as advocates for the parties in the fact pattern. You will read out the case and answer any questions that may arise about the fact pattern. The teams will be given up to ten minutes to discuss the fact pattern. Then you will facilitate a discussion lasting up to 25 minutes at the end of which you will summarize the key arguments made on all sides.

**General Guidelines**

All written assignments must be double-spaced, with 1” margins, in Times New Roman font. Late papers will incur a non-negotiable penalty of **one letter grade for each day late**. Papers should be thoroughly proofread, to avoid aggravating the reader. **Submit your papers under Assignments on Blackboard by the start of class on the relevant week.**

Enrollment at University at Albany obligates each student to conduct all activities, both in and out of the classroom, in accordance with the rules and spirit of the school’s Honor Code. Plagiarism and other forms of academic dishonesty are inexcusable under any circumstances and will be dealt with severely. You are responsible for familiarizing yourself with the university’s guidelines on academic integrity, including what constitutes plagiarism in oral or written work you present as your own. Ignorance is NOT an excuse. **If found to have plagiarized or otherwise cheated, you will fail the assignment and in most cases, the course.**

Reasonable accommodation will be made for students with any documented physical, learning, or other disabilities. To ensure equitable and fair treatment of all students, such matters should be brought to my attention **within the first two weeks** of the semester.

**Readings**

Readings are due on the date under which they are listed. All are available online (via Blackboard or the embedded hyperlink).

Copies of all required treaties and laws are separately available online at U of Minn: [http://www1.umn.edu/humanrts/](http://www1.umn.edu/humanrts/)

**I. INTRODUCTION**

**Week One: 1/21 Introduction and Overview**

*The nature of international law and international human rights. Historical development of human rights law.*

UN Charter, esp. Preamble, Arts 1, 2, 13, 39-44, 51, 55 and 56. (S 3-24).

II. THE NATURE OF HUMAN RIGHTS

Week 2: 1/28 Foundational Theories, the Nature of Human Rights and a Typology of Human Rights

Why should we respect human rights? What claim do they have on us? Legal? Moral? What types of rights are categorized as human rights?

International Bill of Rights

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<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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Geoff Dancy and Christopher J. Fariss, "The Hidden Successes of International Human Rights Law" (SSRN 2014)

Jeremy Waldron, "Duty-Bearers for Positive Rights" (SSRN 2014)

Vanice Lirio Do Valle, "Judicialization of Socioeconomic Rights in Brazil: Mercantilization of the Fundamental Rights as a Deviance in Rights Protection" Paper presented in the 3rd YCC Conference - American Society of Comparative law, at the Lewis & Clark University, Portland, Oregon, in April, 2014.

Week 3: 2/4 Human Rights and Religion: the Relativist Challenge

Religion is commonly viewed as the enemy of human rights. How might it be considered as supportive of human rights? Since religious freedom is commonly identified as a human right, how do we balance religious and “non-religious” human rights?

Islamic Charter for Human Rights

Michael Perry,

John Witte, "Religious Sources and Dimensions of Human Rights"

Cyra Akila Choudhury, "Beyond Culture: Human Rights Universalisms versus Religious and Cultural Relativism in the Activism for Gender Justice" Journal of Research in Gender Studies, 2015(Forthcoming)
Week 4:  2/11  Asian and Cutural Values: the Relativist Challenges II

Many post-colonialist thinkers have challenged general human rights principles as imperialistic. How valid is this? How should we accommodate this? One such value is democracy. Is democracy a human right? What about private property and economic rights?

Bangkok Declaration  Final Declaration of The Regional Meeting For Asia Of The World Conference On Human Rights (1993)

Vienna Declaration  Vienna Declaration and Programme of Action, World Conferenc on Human Rights (1993)

Donnelly, John. ______


III. THE LEGAL DEVELOPMENT OF HUMAN RIGHTS LAW

Week 5:  2/18  Treaties

Many of the most important human rights are embodied in multilateral conventions. How do these instruments serve to define and promote human rights. Conflicts of women’s rights are particularly common and illustrate the complexity of convention adoption and interpretation.

VCLT  Vienna Convention on the Law of Treaties
CEDAW  Convention for the Elimination of Discrimination Against Women


Thena Nguyen, "Through the Eyes of Women? The Jurisprudence of the Cedaw Committee" Outskirts, Volume 30, May 2014

**Week 6: 2/15 Customary Law – Jus Cogan**

*Human rights law are not just treaty made – they are also an outgrowth of customary law, of which jus cogens is a specialized type. How do customary laws develop and becoming binding? One area of development are laws relating to crimes against humanity, such as the use of rape as a weapon of war.*


**Week 7: 3/4 International Humanitarian Law (IHL) and International Criminal Law (ICL)**

*IHL and ICL both seek to protect international human rights and reflect international human rights values. To what extent do human rights survive a declaration of war? In an age of terror, what is war?*


ICRC, “What is International Humanitarian Law”


Zelalem Mogessie Teferra "Amnesty for International Crimes in International Law" (SSRN 2014)

**III UN AND REGIONAL SYSTEMS**

**Week 8: 3/11 The United Nations, the UN Human Rights Commission**

*The United Nation system offers a number of avenues in support of human rights, ranging from sponsoring forums for the creation of human rights conventions to hosting separate treaty bodies*
(such as the UN Human Rights Commission) and seeking to advance human rights through its internal organs.


3/18 Spring Break

**Week 9: 3/25 InterAmerican Human Rights System**

*The Inter-American treaty is the oldest of the regional treaties. We will review its basic structure, using its approach to indigenous rights as a key focus.*

American Convention on Human Rights

**Week 10: 4/1 European Human Rights System**

*The European human rights system is the strongest outside of the UN itself. Why? How does it handle contentious issues such as freedom of speech versus hate speech and holocaust denial?*


**Week 11: 4/8 African Human Rights**

*The African Human Rights system, the newest and least developed system, introduced the concept of people’s rights. How does this advance human rights discourse?*

African [Banjul] Charter on Human and Peoples’ Rights


V. SPECIAL TOPICS

Week 12: 4/15  Migration, Refugees, and Trafficking

People are constantly on the move, whether from seeking economic opportunity to fleeing from violence and exploitation. How do we balance the rights of national sovereignty with the interests of migrants and asylum seekers? How is the system exploited by traffickers in persons?

Convention relating to the Status of Refugees


Week 13: 4/23  Torture

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

DOJ 12/30/04 Re: Legal Standards Applicable Under 18 U.S.C. §§ 2340-2340A (the Torture Memo)

US Senate Select Committee on Intelligence, Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program

Week 14: 4/29  Military Interventions and Responsibility to Protect

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms


Week 15: 5/6  Corporate Responsibility, Conclusions and Summary
Daniel Augenstein and David Kinley, "Beyond the 100 Acre Wood: In which International Human Rights Law Finds New Ways to Tame Global Corporate Power" The International Journal of Human Rights, 2014, Forthcoming

Larry, Cata Backer, "From Guiding Principles to Interpretive Organizations: Developing a Framework for Applying the UNGPs to Disputes that Institutionalizes the Advocacy Role of Civil Society" Business and Human Rights: Beyond the End of the Beginning (César Rodríguez-Garavito, ed., 2015, Forthcoming)