

**INTERNATIONAL HUMAN RIGHTS
COURSE/SEMINAR**

Chicago-Kent College of Law

Law 686-081-02
Mon. 4 - 5:50 PM
Classroom 547
Spring Semester 2010

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A. Seminar Description:

This course will focus upon human rights, their status as international law and the major issues in the implementation and enforcement of that law. An additional focus will be on the human rights implications of globalization.

After considering the philosophical origins of human rights, the course will examine the process by which sovereign nation-states have come to recognize an increasing number of these rights as part of positive international law. The focus will be upon the Universal Declaration of Human Rights, the two International Covenants on Human Rights and a number of other human rights treaties. The course will consider the extent to which the standards set out in these texts can be said to reflect a true international consensus on human rights. In this context, it will also focus upon the many remaining disagreements about the definition and scope of those rights, and upon the problems encountered when individuals attempt to invoke international human rights standards in domestic legal systems.

The course will survey various mechanisms for the promotion, protection and implementation of international human rights, including those of international organizations such as the United Nations, and those of non-governmental organizations such as Amnesty International. Whenever possible, the discussion of legal issues will relate to contemporary developments in human rights, and to issues of US foreign policy involving considerations of human rights. The course may be taken either as a seminar, requiring a seminar paper, or as a course with an exam. Students must select between these options at the time of registration and may not change that status later.

B. Required Text:

Henry J. Steiner & Philip Alston, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS*, 3rd edition, Oxford Univ Press, (2008).

Because current developments in international human rights will frequently be discussed in class, students are also expected to follow international current events relating to human rights by reading a daily newspaper.

C. Course Requirements and Grading

The first class session will consist largely of a lecture and discussion about the philosophical origins of human rights, and a second will focus on the development of our present system of international law. These two sessions will help to place the topic of international human rights law in proper context. At this stage, the goal will be to ensure that all students in the seminar have a basic grasp of what international human rights law is and of how it is created and develops. After this we will shift to a seminar format emphasizing student participation.

An important goal of the course is to assist students in developing the ability to organize a concise and coherent presentation. Accordingly, every student will make two brief presentations during the course of the course/seminar. The first (the *theme presentation*) will focus upon a general weekly theme from the syllabus and readings, which the student will be responsible for presenting and explaining to the seminar. The second (the *topic presentation*) will focus upon a contemporary issue of international human rights law to be defined by each student in consultation with me. For those taking the course as a seminar this topic will ultimately be the focus of the required seminar paper. All student presentations should normally last between 10 and 15 minutes. Student paper topics should.

The *theme presentation* should not merely summarize the assigned readings, although it may need to do so to some extent. Instead, it should identify and clarify the key issues and concepts raised in those readings and consider how they might be applied to a contemporary fact situation.

For the *topic presentation* students are encouraged to develop and propose topics reflecting their particular interests. If necessary, I will also distribute a list of possible paper topics. Topic selections and proposals must be discussed with me as soon as possible so that we can reach agreement on them before mid-February. Those presenting a topic early in the semester will be evaluated more leniently.

All students, whether seeking seminar credit or not, must complete both presentations, but only those registered for seminar credit will need to draft a seminar paper.

According to the rules applicable to all seminars at Chicago-Kent, a seminar paper of at least 25 pages in length, exclusive of footnotes, is required of those taking the course for seminar credit. As noted above, the topic of this paper must be approved in advance, and a draft of the paper must be submitted and discussed with me before you write the final version. Ordinarily the paper will focus upon a topic that the student has presented to the seminar. A draft of the seminar paper should be submitted as soon as possible and by April 21st at the latest. The final version must be submitted before the first day of exam period.

Each student will prepare and distribute to the class a 2 page *preliminary report* on her topic at least one class session before the *topic presentation* is scheduled to be discussed. The preliminary report should include a concise and analytical introduction to the key issues raised by the topic, a brief bibliography, and identify 3-5 major issues or questions related to the topic which can serve as the basis for further class discussion. Prior to the class discussion of a student's topic she will make a 10-15 minute presentation building upon the preliminary report. Everyone will be expected to contribute to the discussion in class, and this discussion should be used by the presenting student as a vehicle for developing new ideas, points of law and research avenues for the benefit of the research papers to follow. Students will be evaluated on the basis of their overall contribution to discussions as well as on the basis of the preliminary report, the two presentations, and of course either an exam, or a seminar paper, depending on whether the course is being taken for seminar credit. In the course of the semester students may also organize and participate in simulation exercises which will also be considered in grading.

Attendance and participation are absolutely essential. Unexcused absences will result in a reduced grade, an incomplete, or other penalty according to the circumstances.

Some Key Websites Relating To International Human Rights

The Document Supplement to our coursebook Henry J. Steiner & Philip Alston, *INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS*, 3rd edition (2008), is found online

<http://www.oxfordtextbooks.co.uk/orc/ihr3e>

The UN High Commissioner for Human Rights (and UN Human Rights Council)

<http://www.ohchr.org/english/>

The United Nations Headquarters Home Page

<http://www.un.org/>

International Criminal Tribunal for the Former Yugoslavia Home Page

<http://www.un.org/icty/>

The University of Minnesota International Human Rights Library

(best, in general, for human rights related documents!)

<http://www1.umn.edu/humanrts/>

Amnesty International Online

(Click Library link for County Reports)

<http://www.amnesty.org/>

The Human Rights Watch Home Page

<http://www.hrw.org/>

How to Make a Complaint to the UN Human Rights Treaty Bodies Online

(New and useful site)

<http://www.bayefsky.com/>

ORGANIZING YOUR PAPER AROUND A THESIS STATEMENT

Each seminar paper must set out and defend a clear and strong thesis involving contested issues of international human rights law. The following website discusses the process of developing and writing a thesis statement.

http://www.indiana.edu/~wts/pamphlets/thesis_statement.shtml

CLASS WEBSITE

I will establish a website for the seminar within a week or so after the beginning the semester

<http://www.kentlaw.edu/classes/>

Weekly Seminar Themes

WEEK 1 INTRODUCTION

Chapter 1. Introduction to Human Rights Issues and Discourse:

Several short readings on human rights and natural law will be discussed, including:

Course Website: Readings on the Origins of Human Rights

Cicero, quotes from The Republic, and On the Laws (52 B.C.)

John Locke, Second Treatise on Government (excerpts) (1690)

The Declaration of Independence (1776)

The Declaration of the Rights of Man and Citizen (1789).

The Universal Declaration of Human Rights

Time permitting, we may also discuss the following readings from the assigned textbook:

Readings: Text. pp. 1-57.

WEEK 2 DEVELOPMENT OF THE MODERN INTERNATIONAL LAW OF HUMAN RIGHTS

Background on international law

The Antelope, 23 U.S. 66 (1825)

Art 38 of the Statute of the International Court of Justice

Be prepared to discuss:

What is the nature of the international legal system?

What is positive international law, and how does it develop?

Background on the Human Rights Movement in International Law

Online Doc. Supp.: **Universal Declaration of Human Rights** (1948).

Course Website:

Eleanor Roosevelt: Address to the United Nations General Assembly on the Adoption of the Universal Declaration of Human Rights (1948)

Bartram S. Brown, *From State-Centric Int'l Law Towards a Positive Int'l Law of Human Rights*, Excerpt from *The Protection of Human Rights in Disintegrating States: A New Challenge*, 68 CHI-KENT L. REV. 203 (1992).

Assigned Readings: Text. pp. 58-148.

Prepare to Discuss: Question 2, p. 84.

WEEK 3 CIVIL AND POLITICAL RIGHTS

Chapter 3. Civil and Political Rights

Assigned Readings: Text, pp. 152-174 (introduction), pp. 175-224 (CEDAW), and 224-262 (Torture).

Online Doc Supp:

International Covenant on Civil and Political Rights

Convention on the Elimination of Discrimination Against Women (CEDAW)

Convention Against Torture

WEEK 4 ECONOMIC AND SOCIAL RIGHTS

Chapter 4. Economic and Social Rights:

Globalization and the Right to Development.

Assigned Readings: Text, pp. 263-320 (Rationale, Concept and Justiciability), 321-358 (India & South Africa), 358-374 (Intl Monitoring of ESC Rights.)

Online Doc. Supp. **Intl Covenant on Economic, Social and Cultural Rights**).

Course Website:

President Franklin Roosevelt's FOUR FREEDOMS SPEECH (January 6, 1941)

Jamin B. Raskin , Book review of THE SECOND BILL OF RIGHTS: 'FDR'S UNFINISHED REVOLUTION AND WHY WE NEED IT MORE THAN EVER, ' by Cass R. Sunstein

Human rights and extreme poverty, Commission on Human Rights resolution 1999/2

Declaration on the Right to Development

UN General Assembly Resolution (U.N. Doc. A/41/53 (1986). (Online Doc Supp.)

WEEK 5 CULTURAL CHALLENGES TO THE UNIVERSALITY OF HUMAN RIGHTS

Chapter 6. Rights or Duties as Organizing Concepts

Assigned Readings: Text, pp. 475-516.

Chapter 7. Conflict in Culture, tradition and Practices: Challenges to Universalism

Assigned Readings: Text, pp. 517-539 (Universalism & Cultural relativism), 540-568

Makau wa Mutua, *The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties* (excerpts), 35 VA. J. INT'L L. 339 (1995).

WEEK 6 NATIONAL SECURITY, TERRORISM AND LIMITATIONS ON HUMAN RIGHTS

Chapter 5

Assigned Readings: Text, pp. 375-416, 432-456.

WEEK 7 THE UNITED NATIONS SYSTEM FOR THE PROMOTION OF HUMAN RIGHTS

Chapter 9. Intergovernmental Enforcement of Human Rights Norms: The United Nations System

Assigned Readings: Text, pp. 735-765 (Res 1503 and 1235 procedures), 765-790 (Thematic special procedures), 791- 843 Establishing the UN Human Rights Council).

WEEK 8 THE ICCPR AND THE HUMAN RIGHTS COMMITTEE

Chapter 10. Treaty Bodies: The ICCPR Human Rights Committee
Assigned Readings: Text, pp. 844-925.

**Human Rights Committee, General Comment on Reservations to Human Rights
Treaties**

WEEK 9 REGIONAL HUMAN RIGHTS MECHANISMS

Chapter 11. Regional Arrangements: A Laboratory for Globalization?
Assigned Readings: Text, pp. 925-933, 933-964 & 1001-1020 (European system), 1020-1048 (Inter-American System), 1062-1083 (African System).

***Soering v. United Kingdom*, European Court of Human Rights (1989) 11 Ehrr 439**

***William Andrews Case*, Inter-American Commission for Human Rights**

Materials on the African Human Rights System

African [Banjul] Charter on Human and Peoples' Rights (excerpts)

**Dinah Shelton, *Analysis of African Commission for Human Rights Decision Regarding
Communication 155/96*, 96 A.J.I.L. 937 (2002)**

***Khartoum Unsuitable to Elect African Judges*, AFRICA NEWS, January 20, 2006.**

**Chidi Anselm Odinkalu, *How The Judges Of The African Court Emerged*, ACCRA
MAIL, January 30, 2006.**

***PanAfrica; AU Court of Justice to Operate Soon*, AFRICA NEWS, January 25, 2006.**

WEEK 10 NON-STATE ACTORS AND HUMAN RIGHTS

Chapter 15. Non-State Actors and Human Rights
Assigned Readings: Text, pp. 1385-1433..

WEEK 11 HUMAN RIGHTS IN THE DOMESTIC LEGAL ORDER

Chapter 12. Vertical Interpenetration: Intl Human Rights Law within States' Legal and Political
Orders

Assigned Readings: Text, pp. 1087-1156.

Chapter 13. Horizontal Interpenetration

Assigned Readings: Text, pp. 1156-1177.

***Sei Fujii v. California*, 38 Cal. 2d 718 (1952)**

Handout on The Bricker Amendment Controversy

UK Human Rights Act of 1998

***Filartiga v. Pena-Irala*, 630 F.2d 876 (1980)**

US Reservations to the ICCPR

WEEK 12 THE ENFORCEMENT BY STATES AGAINST VIOLATOR STATES AND HUMANITARIAN INTERVENTION

Chapter 13. Enforcement by States against Violator States

Bartram Brown, *Barely Borders*, 26 HARV. INT'L REV. 52 (2004).

Kofi A. Annan, *Two concepts of sovereignty*, THE ECONOMIST, 18 September 1999

Richard H. Cooper and Juliette Voinov Kohler, *The "Responsibility to Protect:" The New Global Moral Compact*, © 2006.

WEEK 13 MASSIVE HUMAN RIGHTS TRAGEDIES: PROSECUTIONS AND TRUTH COMMISSIONS

Chapter 14. Massive Human Rights Tragedies: Prosecutions and Truth Commissions

Assigned Readings: Text, pp. 1243-1291, 1291-1319, 1331-1385.

Definition of International Crimes Prosecuted At Nuremberg

Excerpts on War Crimes from the Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War

WEEK 14 Open

Essential Elements of each Student Presentation (10-15 minutes):

1. Two page Preliminary Report distributed to the class a week before (for the Topic Presentation only, not for the Theme Presentation)
2. Brief definition of the subject
3. Historical context (where appropriate)
4. Why the subject is important
5. How the subject relates to some of the other important themes and topics in the Seminar
6. Differing views on the subject, if any, and their implications
7. Your personal views on the subject, and **why** you hold them (i.e. justification and not mere conclusion).
8. Identify 3-5 associated sub-topics for possible discussion by the seminar

Seminar papers must:

1. Be submitted electronically as an e-mail attachment
2. Include the student's name on the first page
3. Use footnotes not endnotes
4. Have a table of contents at the beginning which includes all headings in your outline indicating the page number for each of them