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Introduction

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This volume is intended to assist those who teach, or would like to develop courses, on international human rights at the university-level. It includes syllabi, course descriptions and outlines, and accompanying bibliographies of recommended readings, from institutions on every continent and from many different disciplinary perspectives, among them: law, political science, anthropology, sociology, medicine and public health. The preponderance of material is, however, in English.

Also included, as an appendix, is a listing and (where available) a short description, of specialized centres and programs for teaching human rights at the university-level.

The volume has been compiled by Human Rights Internet (an NGO in Consultative Status with the United Nations) which has, for many years, been collecting material to assist in the teaching of international human rights. As early as 1981, Internet published a volume of syllabi for teaching human rights, and in 1992, it published a volume of syllabi for teaching about genocide.

Over the past decade, there has been a significant expansion in the number of institutions teaching international human rights, and in the number of countries where such courses are taught at the university level. Despite this hopeful development, the largest number of programs and courses are still being offered at universities, colleges and law schools in North America and Western Europe.

Moreover, as is evident in the material compiled in this volume, the recommended readings assigned to students, even where courses have been developed by Latin American, African, or Asian scholars, is still heavily Western or Northern. This is, I believe, less a bias of the compiler than a reflection of the state of the "discipline" of international human rights.

There are two explanations for this: firstly, many of the scholars teaching in this field have received their training at Western or Northern institutions; and, secondly, materials written by Southern scholars is not well enough known or readily available. It is hoped that this volume will help spur the development and dissemination of new materials, especially those which address human rights issues and perspectives of the South.

In compiling this volume, a letter was sent to several hundred individuals and institutions believed to be involved in human rights education at the university-level. Since far more material was received than could be included in this publication, Human Rights Internet is publishing an additional volume, which can be obtained by contacting our offices at the University of Ottawa.



HRE/EO/AR/L

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- "The Concepts of Human Rights and its Definitions," Dr. Ali S. Atiyyah (Jordan), Al-Quds Open University, Aman, 1 p.
- *"The Rights of Peoples and the Rights of Individuals," Prof. Edmond Jouve, University of Paris, France. approx. 5 p.
- *The Teaching of Human Rights in Algeria," Prof. Ghaouti Mekamcha, University of Tlemcen, Tlemcen, approx. 3 p.

II. International Law Approaches

- "Human Rights Law," Prof. Nihal Jaywickrama (Sri Lanka), University of Hong Kong, 18 p.
- "Human Rights Law," School of Law, University of Witswatersrand, Johannesburg (South Africa), 5 p.
- "International Human Rights," Prof. Vladimir Kartashkin (Russia), Barnard College, New York, 5 p.
- "Human Rights Law," Centre for the Study of Human Rights, University of Colombo (Sri Lanka), 2 p.
- "Human Rights Law," Prof. Carlos P. Medina, Jr. (Philippines), Ateneo de Manila University School of Law, 2 p.
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- "Human Rights," Prof. Hernan Montealegre (Chile), Diego Portales University, Santiago, 1 p.
- "International Human Rights Law," Prof. Cecilia Medina (Chile), Diego Portales University, Santiago, 4 p.
- "International Human Rights Law," Prof. Kofi Kumado (Ghana), University of Ghana, Legon (1992), 1 p.
- *"Public Liberties," University of Sidi Mohammed Ben Abdallah, Faculty of Legal, Economic and Social Sciences, Fes, Morocco, approx. 6 p.
- * "The International Protection of Human Rights," University of the Western Cape, South Africa. approx. 3 p.
- * Course material of International Institute of Human Rights, Strasbourg. (Approx. 10 p)

III. Humanitarian Law Approaches

- "Human Rights and International Humanitarian Law," Prof. Reynaldo R. Ty (Philippines), University of the Philippines, 6 p.
- * Course outline of ICRC, Geneva, approx. 5 p.

IV. Political Science Approaches

- "Political Repression," Prof. John McCamant (USA), Graduate School of International Relations, University of Denver, Denver, Colorado, 4 p.
- "Capstone in Human Rights: Peoples' Rights and the Democratic Revolution," Prof. George Shepherd, Graduate School of International Relations, University of Denver, Denver, Colorado, 3 p.
- * "Human Rights and Economic Development," Oscar Schachter and Stephen Marks - Columbia University, 3 p.

V. Philosophical Approaches

- * D.W. Fitzmaurice, University of Essex, "Justice, Rights and Obligations" - approx. 5 p.
- * Stanley Hoffman, Harvard University, "Ethics and International Relations" - approx. 4 p.

VI. Sociological & Anthropological Approaches

- * Hilda Kuper, "Destruction and Survival of Indigenous Societies" - UCLA, 4 p.

VII. Medicine, Health Sciences, and Human Rights

- "Human Rights for Public Health Practitioners," Prof. Katarina Tomasevski (Yugoslavia) and Prof. Jonathan Mann (USA), Harvard School of Public Health, Cambridge, Mass., 11 p.
- "Human Rights and Medicine: The Uses of Medical Skills in Documenting Abuses and Treating the Victims," Department of Social Medicine, Harvard Medical School and Physicians for Human Rights, Boston, Mass. 2 p.
- "The Rights to Health Care," Prof. Rebecca Cook (USA) and Prof. Deborah Maine (USA), Columbia University, New York, NY, 6 p.

VIII. Theological and Educational Approaches

- "Human Rights," developed by Programa Interdisciplinario de Investigaciones en Educación (PIIE) and offered at the Universidad Bolivariana, Chile, 1 p.
- "Human Rights: Educational, Religious and Moral Questions," Prof. Paul Martin (USA), Columbia University, New York, 2 p.
- "Morality and Human Rights," Prof. Carlos de la Rivera R., (Chile) Faculty of Theology, Catholic University of Chile, Santiago, 1 p.
- "An Interdisciplinary Course on Human Rights," San Joaquín Campus, Catholic University of Chile, 2 p.
- * "The Practice of Rights," D. Cingranelli, SUNY, Birmingham (focus on methodology) - approx. 6 p.

IX. Regional Perspectives

- "Human Rights and the Democratic Transition in Latin America: The Case of Central America," Prof. Sonia Picado (Costa Rica), Department of Political Science, Columbia University, 9 p.
- "Human Rights and Constitutionalism in Post-Communist Poland and Central Europe," Prof. Wiktor Osiantynski (Poland), Harvard Law School, Cambridge, Mass., 3 p.
- "Human Rights in Africa," Prof. Nasila S. Rembe (Lesotho), National University of Lesotho, Roma, 2 p.
- "International Protection of Human Rights," Prof. Paul Hunt, School of Law, University of Waikato, Hamilton, New Zealand, 2 p.
- * "Human Rights in the Middle East," Joost R. Hiltermann (Dutch), Arab Studies, Georgetown University - approx. 8 p.
- * "Europe and Human Rights" - Kevin Boyle, Univ of Essex - 5 p.
- * "Human Rights Protection in Europe," Manfred Nowak - Vienna - 2 p.

X. Women's Rights

- "History of Women in India," Department of History, Annamalai University, Tamil Nadu, India, 2 p.
- "Women and the Law," courses offered by the Faculty of Law, State University of Utrecht, The Netherlands, 1 p.
- "Women and the Law," courses offered by Faculty of Law of the University of Leiden, The Netherlands, 1 p.
- * "Gender and Law," University of Witwatersrand - approx 5 p.
- * "Human Rights of Third World Women" - Nancy Haanstad, Weber State University, Utah - approx. 6 p.
- * "Women, Legal Systems and Policymaking: Comparative Approaches to Equality Issues," Marsha Freeman, University of Minnesota, approx. 3 p.

XI. Minorities, Group Rights and Discrimination

- "Seminar on Nationalism, Minority Rights and Self-Determination," Prof. Hurst Hannum (USA), Tufts University, The Fletcher School of Law and Diplomacy, Medford, Mass., 3 p.
- "Race, Religion and Culture in International Law," Prof. Natan Lerner (Israel), Faculty of Law, University of Tel Aviv, 1 p.
- "Human Rights and Ethnic Minorities," Utrecht University, The Netherlands, 3 p.
- "Ethnic Tensions in Plural Societies: The Role of the Courts," Neelam Tiruchelvam (Sri Lanka) - Harvard - approx. 5 p.

XII. Refugees

- * Debra Anker, "Asylum and Refugee Law" - Harvard - 8 p.
- * Van Arsdale, "Human Rights and the International Refugee System"
- * Patty Blum, Refugee Protection (California) - 4 p.
- * Courses at Refugee Studies Centre, Queen E College, UK

XIV. Criminal Justice

"Colloquium on the United Nations Crime Prevention and Criminal Justice Program," Prof. Roger S. Clark (USA), Rutgers Law School, Camden, NJ, 3 p.

Appendix: Institutions with Programs in International Human Rights (still to be provided, approx. 25 p.

Note: without new additions, manuscript currently 130 p.)
Total manuscript will be kept to 200 pages.

Human Rights in Cross-Cultural Perspectives

Course developed by Sudanese scholar, Prof. Abdullahi Ahmed An-Na'im, and taught as the "Sallows Seminar in Human Rights," University of Saskatchewan, Saskatoon, Canada (Fall 1989)

Objectives:

Current international standards of human rights and the machinery for their promotion and enforcement are said to emanate from primarily Western cultural perspectives. Conversely, it is therefore assumed or argued that non-Western cultural traditions are reluctant, if not outright opposed, to complying with these standards. This seminar attempts to assess the validity of these and other related propositions, and seeks to develop their implications for the formulation and implementation of international human rights. The issues to be discussed include the following:

- (1) Do Western cultural perspectives in fact support the full range of human rights?
- (2) Is it true that human rights are alien to non-Western cultural traditions?
- (3) To the extent that there are conflicts and tensions between human rights and Western or non-Western cultural traditions, what are the corresponding concepts and values in those traditions?
- (3) How can these cultural concepts and values be used to promote greater legitimacy and popular support for human rights within the context of the various traditions?
- (4) What are the implications of all this for the promotion and protection of human rights?

Structure: The course meets for 13 two-hour seminar sessions.

Course Outline and Readings

I. Introduction

During the first session, students are invited to reflect on the objectives and methods of the course, and express their conceptions of Western and non-Western cultural traditions and their significance.

1. **Introduction:** Specifically, the following questions are posed: What do we understand by the term "cultural"? In what sense can culture be described as "Western" and "non-Western"? Why is such a classification useful for the purposes of the seminar? Are there other classifications and considerations which can be useful for our purposes?

Required Readings

Preiswerk, Roy, "The Place of Intercultural Relations in the Study of International Relations," The Yearbook of World Affairs. Vol. 32, 1978. pp. 251-67.

Donnelly, Jack and Rhoda Howard, (eds.) International Handbook of Human Rights. Westport, Connecticut: Greenwood Press. 1987, pp. 1-28.

Suggested Readings

Walker, R.B.J., "East Wind, West Wind: Civilizations, Hegemonies and World Orders," in Culture, Ideology and World Order, R.B.J. Walker (ed). Boulder, Colorado: Westview Press, 1982. pp. 2-22.

Benedict, Ruth, Patterns of Culture. Boston: Houghton Mifflin, 1959. pp. 1-56, 223-78.

Herskovits, Melville. Cultural Dynamics. New York: Knopf, 1964. pp, 1-64.

Part I.

This section of the course provides an overview and brief history of the modern human rights movement, an analysis of the philosophical underpinnings of the major relevant international instruments, and a look at the problems of implementation. For this purpose, the seminar looks beyond formal ratifications and reservations entered into by African and Asian countries, to assess the real status of the full range of human rights in these countries.

2. History and Development of the Modern Human Rights Movement:

What are the effective beginnings and main stages of the modern human rights movement? In what ways is the modern movement different from previous efforts to address similar concerns? How were the current international human rights standards established? How much input did African and Asian peoples have in the drafting and adoption of the major human rights instruments? Why and how is this question significant at the present stage?

Required Readings

Szabo, Imre, "Historical Foundations of Human Rights and Subsequent Developments," in The International Dimensions of Human Rights. vol. 1, Karel Vasak, (ed.). Westport, Conn: Greenwood Press, 1982. pp. 11-40.

Jenks, C.W. The World Beyond the Charter in Historical Perspective. London: Allen and Unwin, 1969. pp. 92-3.

Meron, T. Human Rights Law-Making in the United Nations. Oxford: Clarendon Press, 1986. pp. 269-91.

Suggested Readings

Sieghard, Paul, The Lawful Rights of Mankind. Oxford: Oxford University Press, 1985. p. 3-58.

Humphrey, John, "The Universal Declaration of Human Rights: Its History, Impact and Juridical Character," in Human Rights: Thirty Years After the Universal Declaration. B. G. Ramcharan, (ed.). The Hague: Martinus Nijhoff, 1979. pp. 21-27.

3. Content Analysis and Further Development of the Major International Human Rights: What are the philosophical assumptions and values underlying the international human rights instruments? Are there inherent conflicts and tensions among these assumptions and values? To what extent can the organization and language of these instruments be regarded as "original legislative intent"? How, if at all, is such intent open to variation or alternative interpretations at the present stage? Is it possible to develop new "human rights", or expand existing ones on the basis of the same philosophical assumptions and values? What are the legal limitations or constraints facing the existing or possible future human rights standards?

Required Readings

Patsch, Karl J. "Fundamental Principles of Human Rights: Self-Determination, Equality and Non-Discrimination," in The International Dimensions of Human Rights. op.cit. p. 61-86.

Morsink, Johannes, "The Philosophy of the Universal Declaration," Human Rights Quarterly. Vol 6, 1984. pp. 309- 34.

Meron, T. Human Rights Law-Making in the United Nations, op.cit. pp. 153-65.

Marks, Stephen, "Emerging Human Rights: A New Generation for the 1980s?" in International Law: A Contemporary Perspective. Falk, Richard et al., (eds.). Philadelphia: Lippincott, 1968, pp. 501-13.

Alston, Philip, "Conjuring Up New Human Rights: A Proposal for Quality Control," American Journal of International Law. Vol. 78, 1984. pp. 607-21.

4. General Issues of Assessing Compliance with International Human Rights Standards: Are the international human rights standards binding under International law? How is this relevant or useful in practice? What is the significance of the ratification, understandings and reservations in relation to

international human rights instruments? What do we learn from the reservations entered by sample Western and non-Western countries? How do we assess compliance with international human rights?

Required Readings

Meron, T. (ed.). Human Rights in International Law: Legal and Policy Issues. Oxford: Clarendon Press, 1984, pp. 17-22.

Young, Oran, "Compliance in the International System," International Law: A Contemporary Perspective. op. cit. pp. 99-111.

Hannum, H. (ed.). Guide to International Human Rights Practice. Philadelphia: University of Pennsylvania Press, 1984. pp. 20-45.

Donnelly, Jack and Rhoda Howard, "Assessing National Human Rights Performance: A Theoretical Framework," Human Rights Quarterly. Vol 10, 1988, pp. 214-48.

Suggested Reading

van Boven, T.C., "United Nations Policies and Strategies: Global Perspectives," Human Rights: Thirty Years after the Universal Declaration. op.cit. pp. 83-92.

Generally, Hannum, Guide to International Human Rights Practice. op.cit.

5. Focus on the Human Rights Performance of Third World Countries: The range of individual and collective human rights to be protected, and the mechanisms or processes through which these "rights" are implemented. Do we look exclusively at the performance of official organs, or include private actors and institutions? What are the pros and cons of each approach? What is the significance of ratification and reservations entered upon the major international human rights instruments by African and Asian countries?

Required Readings

Howard, Rhoda, "Evaluating Human Rights in Africa: Some Problems of Implicit Comparisons," Human Rights Quarterly, Vol. 6, 1984. pp. 160-79.

Howard, Rhoda, Human Rights in Commonwealth Africa. Totowa, N.J.: Rowman and Littlefield, 1986. pp. 37-59.

Suggested Readings

Howard, Rhoda, Human Rights in Commonwealth Africa. op.cit., Chapters 4-8.

Discussions of human rights in a wide variety of countries are published in Jack Donnelly and Rhoda Howard, (eds.). International Handbook of Human Rights. op.cit. See, for example, pp. 135-59, 161-80, 323-36, 339-57, 385-407, on India, Israel, Senegal, South Africa and Uganda, respectively.

Part II.

This section of the course attempts to develop insights into differing priorities and competing conceptions of human rights and human dignity in non-Western cultural traditions through a close examination of representative indigenous African, Asian and North American cultural traditions. In particular, we look for ways of promoting those cultural norms and concepts which are conducive to greater respect for human rights. We also address cultural factors which appear to be antithetical to human rights, and examine ways of reversing or reducing their negative impact in both Western and non-Western traditions. Through this exercise, the seminar seeks to define the relationship between the universal and the culturally-specific aspects of human rights.

6. Human Rights in Religious and Ideological Perspectives: What is the significance of religious and ideological positions for official and private action? In what ways are the major religious and ideological perspectives supportive of, or antithetical to, which human rights? What are the implications of differences in human rights perspectives and priorities?

Required Readings

Howard, Rhoda and Jack Donnelly, "Human Dignity, Human Rights, and Political Regimes," American Political Science Review, Vol. 80, 1986, pp. 801-817.

Espiell, H.G. "The Evolving Concept of Human Rights: Western, Socialist and Third World Approaches," in Human Rights: Thirty Years after the Universal Declaration. op.cit. pp. 41-65.

An-Na'im, Abdullahi A. "Islamic Law, International Relations and Human Rights: Challenge and Response," Cornell International Law Journal. Vol 20, 1987, pp. 317-35.

Suggested Readings

Donnelly, Jack. "Human Rights and Human Dignity: An Analytic Critique of non-Western Conceptions of Human Rights," American Political Science Review. Vol 76, 1982, pp. 303-20.

Przaczynik, F. "The Socialist Concept of Human Rights: Its Philosophical Background and Political Justifications," Revue belge de droit internationale. Vol. 13, 1977, pp. 238-.

7-9. Human Rights in "Traditional" African, Asian and North American Perspectives: In these three sessions, the seminar will consider the degree of compatibility of these cultural traditions with current international standards of human rights. To the extent that there is incompatibility, we will attempt to identify the corresponding cultural concepts and values, and see how they are likely to affect the ways in which members of these cultural traditions relate to the international standards. This inquiry will also address the prospects of further development of concepts and values which are supportive of international human rights, as well as ways of dealing with antithetical concepts and values.

Part III.

Finally, the seminar summarizes the findings of the first two sections and considers their implications for national and international human rights policy and practice. Special attention is given to the implications of our findings to Canadian domestic and international human rights policies and practice.

10. The Universality and Relativity of Human Rights: Are the notions of universality and relativity necessarily mutually exclusive? What are the pros and cons of working for a mutually inclusive approach to universality and relativity in relation to human rights? Is it possible to develop appropriate scope for both universality and relativity in relation to human rights? What would be the guidelines for such an approach?

Required Readings

Donnelly, Jack. "Cultural Relativism and Universal Human Rights," Human Rights Quarterly. Vol 6, 1983, pp. 400-19.

Renteln, Alison. "Relativism and the Search for Human Rights," American Anthropologist. Vol. 90, 1988, pp. 56-72.

Raimundo Panikkar, "Is the Notion of Human Rights a Western Concept?" Diogenes, Vol. 120. 1982. pp. 75-102.

Boulware-Miller, Kay. "Female Circumcision: Challenges to the Practice as a Human Rights Violation," Harvard Women's Law Journal. Vol. 8, 1985, pp. 155-77.

Teson, F.R. "International Human Rights and Cultural Relativism," Virginia Journal of International Law. Vol 25, 1985, pp. 869-97.

11-12. **The Implications of Cultural Diversity for International Human Rights & The Implications of Cultural Diversity for Human Rights at the Domestic Level, the Case of Canada:** In each of these sessions, we considered the following questions: Have the international or national human rights instruments and procedures paid sufficient attention to the factor of cultural diversity? To the extent that there has been sensitivity to this factor, what are the problems and deficiencies in the existing human rights standards and machinery for their protection and promotion? What substantive and procedural elements can be adopted or incorporated in the existing standards and mechanisms in order to ensure greater promotion of human rights?

Required Readings

Ferguson, C.C. "Global Human Rights: Challenge and Prospects," Denver Journal of International Law and Policy. Vol 8, 1979, pp. 367-77.

Nickel, James W. "Cultural Diversity and Human Rights," in International Human Rights: Contemporary Issues. Nelson and Green, (eds.). pp. 43-56.

Murphy, C.F., Jr. "Objections to Western Conceptions of Human Rights," Hofstra Law Review. Vol. 9, 1981, pp. 433-47.

Howard, Rhoda. "Is There an African Concept of Human Rights?" Foreign Policy and Human Rights. New York: Cambridge University Press, 1986, pp. 11-32.

13. **Conclusions:** The international promotion and protection of human rights is supposed to be based on universal standards. Is this true of current standards? To the extent that it is not true, what should be done about it? How do we deal with culturally sanctioned norms and practices which violate international standards of human rights? Shall we impose the international standards on the "offending" culture? What is the alternative? The terms "promotion and protection" and "implementation and enforcement" are often used in relation to human rights. What do these terms mean? How are the distinctions between these terms useful in relation to human rights?

The Concepts of Human Rights and Its Definitions

A unit of a course entitled "Principles of Law and Human Rights," offered by Dr. Ali S. Atiyyah, at Al-Quds Open University, Amman, Jordan.

Objectives: Upon completion of this unit, the student will be able to:

1. Understand the different concepts embodied in various philosophies of human rights.
2. Define the philosophy of human rights.
3. Understand the concepts pertaining, in particular, to "liberty" and "common liberties".
4. Understand the following distinctions:
 - a. The way in which the French Dean, Leon Duguit, classified liberties: as positive liberties and negative liberties.
 - b. The human rights classification of the French scholar, Esmein, who stressed the idea of civic equality and individual liberty.
 - c. The classifications of human rights found in modern law, which distinguishes between the idea of common liberties and individual liberties.
5. Understand the historical development of liberties since they were first legislated in Islamic law -- the Sharia -- through to secular international human rights instruments:
 - a. The Bill of Rights, England (1689)
 - b. The Declaration of Independence of the United States of America (1776)
 - c. The Declaration of the Rights of Man and the Citizen, France (1789)
 - d. The Universal Declaration of Human Rights, United Nations (December 10, 1948)
 - e. The European Convention on Human Rights (1950)
 - f. The American Convention on Human Rights (1969)
 - g. The African Charter on Human and Peoples' Rights (1981)

Subjects Covered in this Unit:

1. The principle of equality as the basis of human rights.
2. Personal liberties and their components.
3. Intellectual liberties and their components.
4. Freedom of expression and its components.
5. Social rights (including labour rights)
6. Economic rights (including property rights)

Human Rights Law

Course developed by Prof. Nihal Jayawickrama, Department of Law, University of Hong Kong (1991-1992)

General Information

This course on Human Rights Law will primarily concentrate on the rapidly developing body of international human rights law. The emphasis will be on the study of substantive law so as to facilitate a better understanding of those human rights concepts which now form part of Hong Kong's domestic law. In doing so, the historical and juridical background to this emerging body of law, the supervisory mechanism at the international level, and the different methods adopted to secure the rights at the domestic level, will also be examined. Through seminars and tutorials, an effort will be made to relate and apply human rights law to relevant domestic issues in Hong Kong. We will also take a look at contemporary human rights problems outside of Hong Kong.

Course Outline

This is an abridgement of a much more detailed course outline. Most of the reading material for the course is listed at the end of the outline.

Topic 1: Historical and Juridical Background

1. International Law: How is it made?

a) Customary international law; b) Treaties; c) Ratification; d) Entry into force; e) Accession; f) Reservations; g) Other instruments; h) Interpretation and Application.

2. International Human Rights Law: How did it emerge?

a) Doctrine of national sovereignty; b) Abolition of slavery; c) Humanitarian law; d) Labour legislation; e) Protection of Minorities.

3. The International Code of Human Rights Law

a) United Nations Charter; b) Universal Declaration of Human Rights; c) International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; and the Optional Protocols; d) Specialized treaties; e) Regional human rights instruments

Topic 2: International Supervision: (a) Human Rights Committee

1. Weaknesses inherent in any system of international supervision: a) Beneficiaries (the people) are not parties to human rights instruments; b) Why do states ratify human rights instruments? c) Lack of enforcement machinery

2. Composition of Human Rights Committee
3. Reporting system: Its Effectiveness
 - a) co-operation of government in providing full information
 - b) possibility of obtaining further (and perhaps critical) information from other sources
 - c) examination of information thus obtained by officials
 - d) right of the monitoring body to make recommendations about necessary improvements in the law or practice of the reporting state
4. Inter-State Communications
5. Individual communications
6. Comparison with the European Convention on Human Rights
7. A Case Study: Hong Kong before the Human Rights Committee

Topic 3: International Supervision: (b) Commission on Human Rights

1. Economic and Social Council - established under Chapter X, UN Charter; 54 member states elected by the UN General Assembly. Its principle human rights functions.
2. Commission of Human Rights - established by ECOSOC in 1949; 53 member states elected by ECOSOC. Its functions.
3. Sub-Commission on Prevention of Discrimination and Protection of Minorities - main subsidiary body of the Commission on Human Rights, established in 1947; 26 experts elected by the Commission. Its functions
4. Expansion of the role of the Commission on Human Rights
 - a) ECOSOC Resolution 728F of 30 July 1959
 - b) ECOSOC Resolution 1235 of 6 June 1967
 - c) ECOSOC Resolution 1503 of 27 May 1970
5. A New Dimension: Approach to human rights violations on an issue-oriented basis:
 - a) Working Group on Enforced or Involuntary Disappearances (established by CHR Resolution 20 of 29 February 1980)
 - b) Special Rapporteur on Summary or Arbitrary Executions (established by ECOSOC Resolution 1982/35 of 7 May 1982);
 - c) Special Rapporteur on Torture (established by CHR Resolution 1985/33 of 13 March 1985);
 - d) Special Rapporteur on Religious Intolerance (established by CHR Resolution 1986/20 of 10 March 1986);
 - e) Special Rapporteur on Mercenaries (established by CHR Resolution 1987/16 of 9 March 1987).
6. A Case Study: The Tienanman Massacre

Topic 4: Case Study - Hong Kong before the Human Rights Committee

Documentation:

Third Periodic Report of the United Kingdom in respect of Hong Kong, 30 October 1989.

Third Periodic Report of the United Kingdom in respect of Hong Kong: An Update, 15 March 1991.

Human Rights Committee, 41st Session, 25 March - 12 April 1991, Provisional Agenda.

Human Rights Committee, 1045th - 1050th Meetings: United Nations Press Release.

Hong Kong Group to Lobby, etc.

Membership of the Human Rights Committee, 1991/92

List of Issues

Topic 5: Case Study: The Beijing Massacre

Documentation: Sub-Commission on Human Rights, August 1989

41st Session of the Sub-Commission (a report on the agenda in Human Rights Monitor, 1989).

Provisional Agenda.

List of Participants.

Statement of the International Federation of Human Rights, made by Li Lu, 16 August 1989.

Statement of Amnesty International.

Statement by the Secretary-General, International Commission of Jurists, on behalf of 14 NGOs, 17 August 1989.

Statement by the Observer of China, 18 August 1989.

List of draft resolutions submitted under Item 8.

Statement by the Observer of China, 31 August 1989.

Draft Resolution on China.

Statement by the Chinese Delegation, 31 August 1989.

South China Morning Post, 2 September 1989.

Nihal Jayawickrama, "Human Rights Exception No Longer," in The Broken Mirror: China After Tiananmen, Hicks (ed.), 1990.

Documentation: Commission on Human Rights, February-March 1990 Agenda.

Attendance.

Situation in China: A Note by the UN Secretary-General, submitted to the Commission on Human Rights, 30 January 1990.

Draft Resolution on China.

Proceedings of the Commission on Human Rights, 6 March 1990.

Topic 6: Interpretation of a Bill of Rights

1. Hong Kong Bill of Rights Ordinance
2. Vienna Convention on the Law of Treaties 1969:
3. The preparatory work (travaux preparatoires) of the ICCPR.

See: Bossuyt, M. Guide to the Travaux Preparatoires of the International Covenant on Civil and Political Rights, 1990.

Henkin, Louis (ed.). The International Bill of Rights: The International Covenant on Civil and Political Rights, New York: Columbia University Press, 1981.

4. The General Comments of the Human Rights Committee on the scope and content of the provisions of the ICCPR.

See: UN Doc CCPR/C/21/Rev.1.

5. The "views" of the Human Rights Committee on "communications" submitted to it by individuals under the Optional Protocol.

See: Selected Decisions under the Optional Protocol (Second to Sixteenth Sessions), New York, United Nations, 1985.

Selected Decisions of Human Rights Committee under the Optional Protocol (Seventeenth to Thirty-Second Sessions), New York, United Nations, 1990.

Annual Reports of the Human Rights Committee to the General Assembly of the United Nations.

6. Scholarly writing on the ICCPR.

7. Analogous provisions in the European Convention on Human Rights as interpreted by the European Court and the European Commission on Human Rights; and in the American Convention on Human Rights as interpreted by the Inter-American Court and Inter-American Commission of Human Rights.

See: European Human Rights Reports.

Digest of Strasbourg Case Law Relating to the European Convention on Human Rights.

International Legal Materials.

International Law Reports.

Decisions and Reports of the European Commission of Human Rights.

8. Analogous provisions in Bills of Rights in other countries as interpreted by the superior courts of those countries.

See: Law Reports of the Commonwealth.

The Commonwealth Law Bulletin.

9. Analogous provisions in other international human rights treaties (e.g., Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Elimination of All Forms of Racial

Discrimination), and their interpretation by the relevant monitoring bodies (e.g., Committee Against Torture).

10. Standard-setting resolutions of the UN General Assembly. See, for example:

UN Standard Minimum Rules for the Treatment of Prisoners 1957 as amended
Code of Conduct for Law Enforcement Officials 1979
Principles of Medical Ethics 1982
Standard Minimum Rules for the Administration of Juvenile Justice 1985
Basic Principles of the Independence of the Judiciary 1985
Body of Principles for the Protection of All Persons Under Any Form of Detention of Imprisonment 1988
Basic Principles on the Treatment of Prisoners 1990
Standard Minimum Rules for Non-Custodial Measures 1990
Rules for the Protection of Juveniles Deprived of their Liberty 1990
Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990
Basic Principles on the Role of Lawyers 1990
Guidelines on the Role of Prosecutors 1990

Topic 7: Freedom from Torture

1. Seven distinct modes of conduct are prohibited:
a) torture; b) cruel treatment; c) cruel punishment; d) inhuman treatment; e) inhuman punishment; f) degrading treatment; g) degrading punishment. The prohibition extends to all these; and in each case the state obligation is absolute, non-derogable, and unqualified.
2. The Convention Against Torture (1984) created a specific international framework aimed at abolishing torture, and provided it with an appropriate monitoring mechanism.
3. Definition of Torture. See, e.g., how it has been defined by the European Commission in Denmark, Norway, Sweden and the Netherlands v Greece (The Greek Case).
4. Cruel Treatment. There does not appear to be any jurisprudence yet on the interpretation of this expression.
5. Cruel Punishment. A punishment that is excessive and out of all proportion to the offence; a punishment that does not accord with the dignity of the individual; the punishment of a status (e.g., addiction to narcotics); a punishment which makes no measurable contribution to acceptable goals, and is therefore nothing more than the purposeless and needless imposition of pain and suffering (e.g., the death penalty).

6. Inhuman Treatment. Inhuman treatment is such treatment as deliberately causes severe suffering, mental or physical.

7. Inhuman Punishment. The suffering occasioned must attain a particular level before a punishment can be classified as "inhuman", e.g., life imprisonment without any hope of release.

8. Degrading Treatment: treatment which grossly humiliates a person, or drives him to act against his will or conscience.

9. Degrading Punishment: the humiliation and debasement involved must attain a particular level and must, in any event, be other than the usual element of humiliation involved in judicial punishment.

Topic 8: Right to Liberty and Security of Person

1. No one shall be subjected to Arbitrary arrest or detention.

2. No one shall be Deprived of his Liberty except on such grounds and in accordance with such procedure as are established by law. Applicable to all deprivations of liberty, whether in criminal cases or in other cases such as, e.g., mental illness, vagrancy, drug addiction, educational purposes, immigration control, preventative detention.

3. Anyone who is arrested shall be informed, at the time of arrest, of the Reasons for his Arrest and shall be Promptly Informed of any Charges against him.

4. Anyone arrested or detained on a criminal charge shall be Brought Promptly Before a Judge or other officer authorized by law to exercise judicial power.

5. The arrested person must be brought to Trial Within a Reasonable Time or to release.

6. It shall Not be the general rule that persons awaiting trial shall be Detained in Custody. This means that such person is entitled to be released on bail unless there are very good reasons to the contrary, e.g., the danger of absconding, the danger of repeating the offence, or the danger of suppressing evidence.

7. The arrested person is entitled to Test the Legality of his arrest or detention by proceedings before a court. This means: access to a court; access to a lawyer; and opportunity to be heard in person or through a lawyer of his choice.

8. A victim of unlawful arrest or detention shall have an enforceable right to Compensation.

9. No one shall be imprisoned on the ground of Inability to Fulfil a Contractual Obligation.

Topic 9: Freedom of Movement

1. The freedom of movement falls into four distinct categories:
 - a) Freedom to move about within the borders of a state.
 - b) Freedom to choose a residence within the territory of a state.
 - c) Freedom to leave a state.
 - d) Freedom to enter one's own state. See: "The Strasbourg Declaration on the Right to Leave and Return" [1987] American Journal of International Law 432.

Note that these four freedoms are subject to quite different incidents. For example, d) may be enjoyed only by national; a) and b) by persons lawfully within the territory of a state; and c) by all persons.

2. a), b) and c) may be subject to lawful restrictions: National Security: military bases and other closed areas; travel restrictions on military and security personnel engaged on active duty; scientists in possession of classified information? Public Order: restriction on convicted persons, sentenced to imprisonment, fugitives from justice; highly qualified and skilled persons (brain drain)? Public Health and Morality: access to water supplies and contaminated areas; restrictions on persons suffering from infectious diseases; cross-border prostitution; Rights and Freedoms of Others: judgement-debtors, tax defaulters; critics of the government?

Further Readings:

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Topic 10: Self-Determination

1. Self-Determination as a human right. The right of all "peoples" to self-determination is set out in Article 1 of both the ICCPR and ICESCR. Note: In respect of all its colonial territories including Hong Kong, the Government of the United Kingdom made the following "declaration of understanding" when ratifying the ICCPR in 1976: "First, the government of the United Kingdom declare their understanding that, by virtue of Article 103 of the Charter of the United Nations, in the event of any conflict between their obligations under Article 1 of the Covenant and their obligations under the Charter (in particular, under Articles 1, 2, and 73 thereof) their obligations under the Charter shall prevail."

2. Self-Determination in other international instruments. Reference to self-determination contained in the following UN resolution may help to understand the scope and content of the right:

- a) UNGA Resolution 724 of 27 November 1953: Factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government.
- b) UNGA Resolution 1514 of 14 December 1960: Declaration on the granting of independence to colonial countries and peoples.
- c) UNGA Resolution 1541 of 15 December 1960: Principles which should guide members in determining whether or not an obligation exists to transmit the information called for under Article 73 (e) of the Charter.
- d) UNGA Resolution 2525 of 24 October 1970: Declaration on principles of international law concerning friendly relations among states in accordance with the Charter of the United Nations.

3. Scope and Content of the Right of Self-Determination.

- a) The concept of "peoples".
- b) The concept of "self-determination". The right of people to "freely determine their political status" comprises both their international status and their domestic political status; in other words: i) external self-determination, i.e. the right to choose, free from foreign interference, their status within the international community; ii) internal self-determination, i.e. the right to choose freely the form of government under which they wish to live.

Case Study: Hong Kong and the Right of Self-Determination, a point of view.

1. The right of self-determination is a right enjoyed primarily by inhabitants of non-self-governing colonial territories.

See: UN Charter, Article 73; UNGA Resolution 1514 of 14.12.1960; UNGA Resolution 2625 of 14.10.1970; Crawford, Creation of States, p. 91; Namibia, ICJ Advisory Opinion, 1971; ICCPR, Article 1.

2. A colony has a status distinct and separate from the colonial power, and that status exists until the people of that colony have exercised their right of self-determination.

See: UNGA Resolution 2625 of 14.10.1970.

3. The application of the right of self-determination requires a free and genuine expression of the will of the peoples concerned, usually (but not necessarily) through a referendum based on universal adult suffrage.

See: West Sahara, ICJ Advisory Opinion, 1975; UNGA Resolution 1541 of 15.12.1960.

- 4. Hong Kong is a non-self-governing colonial territory.
 - (a) reporting obligation under the ICCPR
 - (b) quaere: 1972 decision of the UN Decolonization Committee.

5. The people of Hong Kong are entitled to the right of self-determination. quaere:

- a) UK view that Hong Kong is in a "special position"; cf. UK declaration of understanding re ICCPR, Article 1;
- b) PRC view that unequal treaties did not result in the creation of a British colony;
- c) legal effect today of the 1898 lease;
- d) historical ties with the PRC;
- e) geographical continuity.

6. The people of Hong Kong have not yet exercised their right of self-determination, and until they have done so, the legal status of Hong Kong as a colony remains unaltered.

- Basic Law is a unilateral act of the PRC
- Joint Declaration effects a cession of territory.

Topic 11: Rights of Refugees

1. Definition of "a refugee".
2. The right of asylum.
3. Obligations of the receiving state.

Topic 12: Freedom from Discrimination

1. Prohibition of Discrimination.
 - a) Discrimination in the enjoyment of civil and political rights
See: Bill of Rights, Article 1(1), Article 1(2) and Articles 10, 20, 21.
 - b) Discrimination in the application of the law
See: Bill of Rights, Article 22.
2. Meaning of "Discrimination".
 - a) a distinction, exclusion, restriction or preference;
 - b) which is based on one of the specified grounds (eg. race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth of other status);
 - c) which has the purpose or effect of nullifying or impairing equality of treatments.

Topic 13: Right to Privacy

This right is required to be guaranteed against interferences and attacks whether they emanate from state authorities or from natural or legal persons. The obligation imposed by Article 14 of the Hong Kong Bill of Rights Ordinance, therefore, appears to require the government to adopt legislative and other measures to give effect to the prohibition against such interference and attacks as well as to the protection of this right.

1. No one shall be subjected to arbitrary or unlawful interference.

2. "Privacy" means one's private life.
 - a) Personal information - the government should be able to call for only such information relating to an individual's private life as is essential for its purpose in the interests of society. The gathering and holding of information on computers, databanks and other devices, whether by public authorities or private individuals or bodies, must be regulated by law.
 - b) Personal and body search
 - c) Sex life - private life included one's sex life. Therefore, the maintenance in force of legislation under which a person is liable to criminal prosecution on account of his homosexual conduct, is a continuing interference with his right to respect for his private life.

3. Family. The term "family" has been given a broad interpretation to include all those comprising the family as understood in a particular society.

4. Home. The term "home" (or "zhuzhai" in Chinese) is to be understood to indicate the place where a person resides or carries out his usual occupation. The search of a person's home should be restricted to a search for necessary evidence and should not be allowed to amount to harassment.

5. Correspondence. The integrity and confidentiality of correspondence is required to be guaranteed de jure and de facto. Surveillance, whether electronic or otherwise, interceptions of telephonic, telegraphic and other forms of communication, wire-tapping and recording of conversations, are interferences with "correspondence."

6. Unlawful attacks on his honour and reputation. The government is under an obligation to provide adequate legislation to protect the personal honour and reputation of individuals.

Topic 14: Right to Family Life

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. Spouses shall have equal rights and responsibilities as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Topic 15: Freedom of Religion

1. Freedom of thought, conscience and religion.
"Pacifism" (ie. the commitment, in both theory and practice, to the philosophy of securing one's political or other objectives without resorting to the threat or use of force against another human being under any circumstances, even in response to the threat of or use of force) as a philosophy falls within the ambit of the right to freedom of thought and conscience. The attitude of pacifism is an "belief".
2. Freedom to have or to adopt a religion or belief of his choice.
3. Freedom, either individually or in community with others and in public or in private, to manifest his religion or belief in worship, observance, practice and teaching.
4. Freedom of parents to ensure the religious and moral education of their children in conformity with their own convictions.

Topic 16: Freedom of Expression

1. Right to hold opinions without interference. This is a right to which no exception or restriction is permitted.
2. Right to freedom of expression.
3. Freedom to seek information and ideas of all kinds.
4. Freedom to receive information and ideas of all kinds.
5. Freedom to impart information and ideas of all kinds.
6. In writing or in print, in the form of art, or through any other media of his choice. Freedom of artistic expression comes within the ambit of this right.
7. Restrictions. The exception must be narrowly interpreted.

Topic 17: Right to Democracy

1. Analysis of Article 25, ICCPR.

Every citizen (permanent resident) shall have the right and the opportunity, without any distinction such as race, colour, sex, language, religious, political or other opinion, national or social origin, property, birth or other status; and without unreasonable restrictions:

- a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
 - b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
 - c) to have access, on general terms of equality, to public service in his country.
2. Reservation entered by the UK in respect of Hong Kong.
 3. Exceptions and Savings in the Hong Kong Bill of Rights Ordinance.

Topic 18: Freedom of Association

1. Freedom of association with others. Does Article 21 guarantee not only freedom of association in the positive sense, but also, by implication, a negative right not to be compelled to join an association?
2. The right to form and join trade unions for the protection of his interests. Trade union freedom is presented as one form or aspect of the freedom of association.
3. Restrictions which are "necessary in a democratic society".

Topic 19: Freedom of Assembly

1. The right of peaceful assembly shall be recognized.

This right covers both private meetings and meetings in public thoroughfares.

Where the latter are concerned, their subjection to an authorization procedure does not normally encroach upon the essence of the right.

Freedom of assembly covers not only static meetings, but also public processions.

A demonstration may annoy or give offence to persons opposed to the ideas of claims that it is seeking to promote. The participants must, however, be able to hold the demonstration without having to fear that they will be subjected to physical violence by their opponents.

The right to freedom of peaceful assembly is secured to everyone who has the intention of organizing a peaceful demonstration. The possibility of violent counter demonstrations cannot as such take away that right. A general ban of demonstrations can only be justified if there is a real danger of their resulting in disorder which cannot be prevented by other less stringent measures.

Reading Package

Chapter 1: The International Bill of Rights

"Participation in instruments," excerpt from Paul Siegard, The International Law of Human Rights (1983)
Status of international instruments, UNESCO Chart
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Universal Declaration of Human Rights
International Covenant on Economic, Social and Cultural Rights
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Chapter 2: Historical and Juridical Background

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Chapter 4: Domestic Protection of Human Rights

Early Models Available for Imitation or Adoption: The French Declaration of the Rights of Man and the Citizen, 1789; The US Bill of Rights, 1791

From Common Law to Constitutional Entrenchment (excerpts from various constitutions)

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Early Commonwealth Constitutions (excerpts)

The Arrival of the Catalyst (important landmarks)

The Pathfinders (excerpts from the Constitutions of India, Nigeria)

Unsuccessful Attempts by the Old Commonwealth to Graft a Bill of Rights (excerpts from Canadian Bill of Rights 1960, Constitution of the Republic of Sri Lanka, 1972)

The Standard Commonwealth Draft (The Monserrat Constitution Order 1989)

A Bill of Rights, "Mark IV" (Excerpts from Canadian Charter of Rights and Freedoms, 1982)

Chapter 5: The Hong Kong Bill of Rights

The Hong Kong Bill of Rights Ordinance

The Hong Kong Letter Patent 1991 (No.2)

Chapter 6: Interpretation of a Bill of Rights

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Chapter 7: Right to Self-Determination

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General Comments of the Human Rights Committee (Comment 12) Cassese, Antonio, "The Self-Determination of Peoples".

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Chapter 8: Right to Life

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Human Rights Committee: General Comments.

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Stewart v United Kingdom (EUCM)
Camargo v Colombia (HCR)
Paton v United Kingdom (EUCM)
"Baby Boy" Abortion Case (IACM)
Tellis v Bombay Municipality Corporation (SC/India)
EHP v Canada (HRC)

Chapter 9: Freedom From Torture

Basic International Standards (excerpts from relevant international instrument)
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X v Netherlands

Chapter 11: Right to Liberty

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Chapter 12: Freedom of Movement

Basic International Standards (excerpts from relevant international instruments)
Kharak Singh v State of Uttar Pradesh (SC/India)
Roopnarine v Barker (HC/Guyana)
Jamakana v Attorney General (HC/Solomon Islands)
Elia v The Police (SC/Cyprus)
Vinet v Cortes (SC/Gibraltar)

Chapter 13: Right to a Nationality

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Poli v Minister of Finance (SC/Zimbabwe)

Chapter 17: Freedom from Discrimination

Basic International Standards (excerpts from relevant international instruments)
Human Rights Committee: General Comments
South West Africa Case (IJC)
The Belgian Language Case (EUCT)
Akar v Attorney General of Sierra Leone (Privy Council)
Savjani v Inland Revenue Commissioners (Court of Appeal)
Abdulaziz, Cabales and Balkandal v United Kingdom (EUCT)
Broeks v Netherlands (HRC)
Inze v Austria (EUCT)

Chapter 18: Right to Privacy

Basic International Standards (excerpts from relevant international instruments)
Human Rights Committee: General Comments
Dudgeon v UK (EUCT)
Malone v UK (EUCT)
Golder v UK (EUCT)
McCallum v UK (EUCT)
Eriksson v Sweden (EUCT)
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Chapter 19: Right to Family Life

Basic International Standards (excerpts from relevant international instruments)
Human Rights Committee: General Comments
Aumeeruddy-Cziffra v Mauritius (HRC)
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Chapter 20: Freedom of Religion

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Chapter 21: Freedom of Expression

Basic International Standards (excerpts from relevant international instruments)
Human Rights Committee: General Comments
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Lingens v Austria (EUCT)
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Case of Markt Intern Verlag GmbH and Klaus Beerman (EUCT)

Chapter 22: Freedom of Association

Basic International Standards (excerpts from relevant international instruments)

Swedish Engine Drivers' Union v Sweden (EUCT)
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Chapter 23: Freedom of Assembly

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Chapter 24: Right to Democracy

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International Human Rights Law

Course developed by Prof. Kofi Kumado and offered in the Faculty of Law, University of Ghana, Legon (1992)

Course Outline

1. Historical background to human rights
2. Human rights jurisprudence and theories
3. International systems and remedies
4. The UN Specialized Agencies
5. Regional systems of protection and implementation
6. Domestic absorption and implementation
7. Non-governmental organizations
8. International humanitarian law
9. The right of peoples to self-determination
10. Human rights and women
11. Human rights and children
12. Freedom of opinion and expression
13. Human rights and the criminal justice system
14. Human rights and indigenous people
15. Human rights in a cross-cultural perspective

Human Rights Law

Course developed at the School of Law, University of the Witwatersrand, Johannesburg, South Africa (1992)

Structure: The course consists of three components: formal lectures, regular tutorials, and a mid-year project (an essay of approximately 20 p.).

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S v Rudman and another; S v Mthwana 1992 (1) SA 343 (A).

(iii) Public Interest Law

van der Vyver, J.D. "Actiones Populares and the Problem of Standing in Roman-Dutch, South African and American Law," Acta Juridica, 1978, pp. 191 ff.

Loots, C. "Keeping Locus Standi in Chains," South African Journal of Human Rights, Vol. 3, 1987, pp. 66 ff.

Wood and other v Ondangwa Tribal Authority & another, 1975 (2) SA 294 (A).

Oos-Randse Administrasieraad v Rikhoto, 1983 (3) SA 595 (A).

NECC v The State President of South Africa & another, unreported decision of the WLD, 9 September 1986.

Jacobs en'n ander v Waks en andere, 1992 (1) SA 521 (A).

(f) Alternative Influx Control Measures

O'Regan, Catherine, "No More Forced Removals? An Historical Analysis of the Prevention of Illegal Squatting Act," South African Journal of Human Rights, Vol. 5, 1989, pp. 395 ff.

The Prevention of Illegal Squatting Act 52 of 1951.

The Trespass Act 6 of 1959.

The Slums Act 76 of 1979.

The Development of Housing Act 103 of 1985 (HA).

(g) Industrial Safety for Human Rights Law

Scott, Adrienne, "Safety and Standard of Care," Industrial Law Journal, Vol. 1, 1980, pp. 161 ff.

Drake, C.D. and Wright, F.F. The Law of Health and Safety at Work: The New Approach. London: Sweet and Maxwell, 1983, pp. 1-22.

General Administrative Regulation 5 of the Machinery and Occupation Safety Act 6 of 1983, reprinted in De Kock's Industrial Laws of South Africa, G3-20 to G3-21.

Workmen's Compensation Act 30 of 1941, ss 7 and 43.

National Union of Mineworkers v Government Mining Engineer, 1990 (4) SA 638 (W).

(h) State-Sponsored Terror Violence

van der Vyver, J.D., "State-Sponsored Terror Violence," South Africa Journal of Human Rights, Vol. 4, 1988, pp. 55 ff.

van der Vyver, J.D., "The State President and Indemnity under the Defence Act," South Africa Journal of Human Rights, Vol. 4, 1988, pp. 153 ff.

Harms, L.T.C. Report of the Commission of Inquiry into Certain Alleged Murders (RP 109/1990), pp. 32-68, 135--62, 195-201.

International Human Rights

Course developed by Russian scholar, Prof. Vladimir Kartashkin, and taught at Barnard College, New York, NY, USA (1991)

Texts: The following two books are used extensively throughout the course. (Other material is noted in the relevant sessions.)

Newman, F. Weissbrodt, D. International Human Rights: Law, Policy and Process. Cincinnati: Anderson Publishing Co., 1990, pp. 333-57.

Buergenthal, T. International Human Rights, Nutshell Series, West Publishing, 1988, pp. 1-16.

Lillich, R. International Human Rights: Law, Policy and Practice. Boston: Little, Brown and Co, 2nd ed., 1991.

I. Origin of Human Rights

Session 1

- a) What are human rights? Are they natural or positive?
- b) What impact have the American, French and Russian revolutions had on human rights?
- c) What is the position of the individual under the norms of international customary and treaty law? Is the individual the subject or the object of international law?
- d) Is an alien entitled to legal protection under international human rights law? Is humanitarian intervention permissible under international law?

Readings

Newman & Weissbrodt, pp. 333-57.
Buergenthal, pp. 1-16.

II. From the UN Charter to the Universal Declaration and the Covenants on Human Rights

Session 2

- a) What are the provisions of the UN Charter on human rights? Are States bound by the human rights clauses of the UN Charter?
- b) What is the meaning of the clause concerning domestic jurisdiction?
- c) What correlation is there between the concepts of sovereignty, non-interference and the international protection of human rights?

Readings

Lillich, pp. 16-163.
Buergenthal, pp. 17-24.

Session 3

- a) What are the categories of human rights that are set out in the Universal Declaration? Is the Universal Declaration legally binding on states?
- b) Are civil and political rights of the individual the most basic and fundamental of all human rights? Is it desirable to set hierarchy of human rights?
- c) What are the differences between "the derogation" and the "limitation clauses" in the Covenant on Civil and Political Rights? Are they desirable?
- d) Are economic, social and cultural rights really rights? Does the Covenant on Economic, Social and Cultural Rights oblige the state parties to implement human rights over time or at once?
- e) Why do we divide human rights into three generation? Are there the so-called "peoples' rights"?

Readings

Newman & Weissbrodt, pp. 61-84, 405-10.
Buergenthal, pp. 24-47.

III. UN Human Rights Machinery

Session 4

- a) What is the role of the main and subsidiary organs of the UN in protecting human rights?
- b) How does the UN investigate violations of human rights?
- c) What are the mechanisms available under the 1234 ECOSOC resolution for inducing a government to improve its human rights record?
- d) How may an individual lodge a complaint under the 1503 ECOSOC resolution? Is the UN petition procedure effective?

Readings

Newman & Weissbrodt, pp. 101-90.
Buergenthal, pp. 61-78.

Session 5

- a) What machinery is provided for in the basic UN human rights treaties (e.g., Covenants on Human Rights, Convention on the Elimination of all Forms of Racial Discrimination, Convention Against Torture)?
- b) Is the reporting system effective in redressing human rights violations? State communications? Individual communications?
- c) Is the idea of an international criminal court a good one?

Readings

Newman & Weissbrodt, pp. 61-84, 307-33, 359-405.
Buerghenthal, pp. 74-81.

IV. Human Rights and the Changing Roles of States in International Relations

Session 6

- a) What are the major issues which stand out as the toughest challenges for human rights in the 1990s?
- b) What is the meaning of self-determination? Is the right to self-determination granted to all people? Does the right to self-determination include the right of national minorities to secede from a state?
- c) Does international humanitarian law apply to all armed conflicts?

Readings

Newman & Weissbrodt, pp. 84-100.
Buerghenthal, pp. 19-210.

V. The Role of International Criminal Law in Shaping Human Rights

Session 7

- a) What are differences between international crimes and international offenses?
- b) What are crimes against peace, war crimes and crimes against humanity?
- c) Do genocide, apartheid, slavery, racial discrimination, torture, and terrorism constitute international crimes or international offenses?

Readings

Lillich, pp. 865-936.

VI. The "Regionalization" of Human Rights

Session 8

- a) Does the regional approach to human rights offer good opportunities for the effective enforcement of human rights?
- b) What is the heart of the European Convention for the Protection of Human Rights and Fundamental Freedoms?
- c) What are the functions of the Commission and the Court?
- d) How effective are the Commission and the Court?

Readings

Newman & Weissbrodt, pp. 462-730.
Buergenthal, pp. 81-122.
Lillich, pp. 639-730.

Sessions 9 & 10

The Inter-American System of Human Rights Protection:

- a) What are the international human rights obligations of member states of the OAS?
- b) What is the legal effect of the American Declaration of the Rights and Duties of Man?
- c) What are the obligations of the State Party under the American Convention on Human Rights?
- d) What is the Commission's authority to react to widespread violations of human rights?
- e) How is a petition examined by the Inter-American Commission?
- f) How is a case brought before the Court? What is the Court's authority?
- g) How effective are the Commission and the Court?

Readings

Newman and Weissbrodt, pp. 257-303.

Buergenthal, T., Norris, R. & Shelton, D. Protecting Human Rights in the Americas. Kehl, Germany: Arlington, 1986.

The African Charter on Human Rights and Peoples' Rights

- a) What are the rights and the duties of an individual under the African Charter on Human and Peoples' Rights? What are "peoples' rights"?
- b) What are the functions of the African Commission on Human and Peoples' Rights?
- c) How do the European, Inter-American and the African human rights organizations differ in their approaches to human rights protection? What are their strengths and weaknesses?

Readings

Newman & Weissbrodt, pp. 303-05.
Buergenthal, pp. 171-89.

VII. Implementing Human Rights Through Domestic Courts?

Session 12

- a) What are relations between international and national law?
- b) How might treaty and customary international norms be invoked in American courts?

- c) What are the problems with seeking to enforce relevant provisions of the UN Charter and other international instruments in American courts?
- d) May international law be used to challenge the execution of juvenile offenders?
- e) Does Soviet legislation recognize priority of international law over national law? Do Soviet courts apply international law?

Readings

Newman & Weissbrodt, pp. 553-680.
Buergenthal, pp. 211-246.

VIII. The Helsinki and the Post-Helsinki Legal Order

Sessions 13 & 14

- a) Is the Helsinki Final Act a treaty?
- b) What are the three baskets of the Final Act?
- c) How is the Final Act being implemented by state participation in the CSCE?
- d) What are the differences between the Helsinki Final Act and CSCE documents of 1989-1990?
- e) Is it possible to create a common European home or confederation of European states? What measures should be taken for this purpose?
- f) What are the legal principles of a common European legal area?
- g) Is it possible to create World Law and World Government?

Readings

Newman & Weissbrodt, pp. 411-462.

Human Rights Law

Course developed by the Centre for the Study of Human Rights (CCHR) (Dr. Deepika Udagama, Director), Faculty of Law, University of Colombo, Sri Lanka, and offered as a course in the final year of the LL.B. degree (April 1992)

I. Introduction

1. Historical development and the philosophical foundations of the concept of human rights
2. Universality of human rights norms
 - a. pre-World-War II developments
 - b. post-World-War II developments - United Nations Charter, International Bill of Human Rights

II. Human Rights Norms

1. Sources of Human Rights Law
 - a. international and regional source
 - b. domestic sources
2. Classification of Human Rights Norms
3. Normative Content of Selected Rights (selection based on non-derogable rights and the relevance of selected rights to the situation in Sri Lanka - to be revised from time to time)
4. Cultural relativity of human rights

III. Relationship Between International (or Regional) Human Rights Norms and Domestic Law

IV. Promotion and Protection of Human Rights

1. International Protection (UN human rights mechanisms)
2. Regional Protection
3. Domestic Protection

V. Limitation and Derogation of Human Rights Norms

VI. Role of International and Domestic Non-Governmental Organizations in Protecting Human Rights

VII. Special Protection Regimes

(This section will be revised from time to time to include evolving special protection regimes)

Recommended Reading

Newman, F. and Wiessbrodt, D. International Human Rights: Law, Policy and Process, Cincinnati: Anderson Publishing Co., 1990.

Meron, T. (ed.), Human Rights in International Law: Legal and Policy Issues, Oxford: Clarendon Press, 1984.

United Nations Centre for Human Rights, A Compilation of International Human Rights Instruments. New York: UN, 1988.
(ST/HR/1/Rev.3)

Goonsekere, R.K.W. Fundamental Rights and the Constitution.

Jacobs, F. The European Convention on Human Rights, Oxford: Clarendon Press, 1975.

Further Reading

Vasak, K. (ed.), The International Dimensions of Human Rights, Vol. 1 & 2. Westport, Connecticut: Greenwood Press, 1982.

Sieghart, P. The Lawful Rights of Mankind, Oxford: Oxford University Press, 1985.

Meron, T. (ed.), Human Rights and Humanitarian Norms as Customary Law, Oxford: Clarendon Press, 1989.

Human Rights Law

Course developed by Prof. Carlos P. Medina, Jr. and taught at the Ateneo de Manila University School of Law, The Philippines (1991-92)

Course Description: This course will focus on the concept of human rights, on the human rights situation in the Philippines and abroad, and on the legal means of promoting and protecting human rights at the national and international levels.

I. Foundations of Human Rights

Readings

Henkin, Louis, The Rights of Man Today, Boulder, Colorado: Westview Press, 1978, chapter 1, pp. 1-30.

II. International Human Rights System

A. The UN Human Rights System

- a. UN Charter
- b. International Bill of Human Rights
 - Universal Declaration of Human Rights
 - Inter'l Covenant on Civil and Political Rights
 - Optional Protocols to ICCPR
 - Inter'l Covenant on Economic, Social and Cultural Rights
- c. Other Major Human Rights Treaties
- d. UN Human Rights Institutions and Procedures
- e. Specialized Agencies

Readings

For a historical background of international human rights Law:

P. Sieghart, The International Law of Human Rights, Oxford: Clarendon Press, 1982, chapter 1, p. 3-23.

T. Buergenthal, International Human Rights in a Nutshell, Minnesota: Westview Press, 1988, chapter 1, pp. 1-16; chapter 2, pp. 17-80.

For a review of the various international instruments, see also Sieghart, op.cit. chapter 2, pp. 24-32.

B. Regional Human Rights Systems

- a. European Human Rights System
- b. Inter-American Human Rights System
- c. African Human Rights System
- d. Other Systems (in Muslim Countries, in Asia and in the Socialist States).

Readings

1. Buergenthal, o.cit. chapters 3-5, pp. 81-189.
2. Velásquez Rodríguez Case (1988) - optional

III. The Philippine Human Rights System

Readings

Articles III and XIII, 1987 Constitution

Bernas, The Constitution of the Republic of the Philippines, Vol. II, pp. 486-504.

Commission on Human Rights, Resolution No. A88-0454

Commission on Human Rights, Resolution No. A89-109-A

"The Manipulative Use of Human Rights Violations," A Message of the Catholic Bishops' Conference of the Philippines

Cases

Valmonte v De Villa - G.R. 83988, September 29, 1989

Guazon v De Villa - G.R. 80508, January 30, 1990

Umil v Ramos - G.R. 81567, July 9, 1990

Marcos v Manglapus - G.R. 88211, September 15, 1989.

IV. International Humanitarian Law

- a. Geneva Conventions of August 12, 1949
- b. Additional Protocols of 1977

Readings

Buergenthal, op. cit. chapter 6, pp. 190-210.

Nahlik, Stanislaw E. "A Brief Outline of International Humanitarian Law," International Review of the Red Cross, July-August, 1984.

Kalshoven, F. Constraints on the Waging of War, 1987 (use as reference material).

V. Human Rights Advocacy

International Human Rights Litigation and Protection

Course developed by Argentinian lawyer, Juan E. Méndez and Chilean lawyer, José Miguel Vivanco, and offered at Georgetown University Law Center, Georgetown University, Washington, DC, USA (Spring 1992)

Structure: Students write a 25-page paper, which can be in the form of two or three memos regarding an assigned case, or a separate paper on a particular topic. A take-home exam is also offered as an option. Attendance and participation count for 25% of the grade.

I. Introduction

The international law of human rights: instruments, remedies and enforcement mechanisms. Human rights law as part of international law, domestic law and foreign policy. International human rights litigation. Economic, social and cultural rights: rights or aspirations? Universalism and cultural relativism.

Required reading

Henkin, L. The Age of Rights, Columbia Univ. Press, N.Y., 1990. Introduction and Chapter I.

Cranston, M. "Are There Any Human Rights?" Daedalus, Vol. 112, no. 4 Fall 1983, p. 1-17.

Teson, F. "International Human Rights and Cultural Relativism," Virginia Journal of International Law, Summer 1985, Vol. 25, no. 4, pp. 869-98.

Alston, P. "US Ratification of the Covenant of Economic, Social and Cultural Rights: The Need for an Entirely New Strategy," American Journal of International Law, Vol. 84, no. 2, 1990.

Vincuña, F. Orrego, a review of J. Detzner, "Tribunales chilenos y Derecho Internacional de Derechos Humanos," American Journal of International Law, 1990, Vol. 84, no. 3, pp. 793-96.

Suggested Reading

Kirkpatrick, J. Dictatorship and Double Standards: Rationalism and Reason in Politics, New York: Simon and Schuster, 1982. (Chapter 1).

Jacoby, T. "The Reagan Turnaround on Human Rights," in Foreign Affairs, Summer 1986, Vol. 64, no. 5, pp. 1066-86.

American Law Institute, Restatement: The Foreign Relations Law of the United States, Vol. 2, 1987, Part VII.

Frankel, M, with E. Saideman, Out of the Shadows of Night: The Struggle for International Human Rights. New York: Deacorte Press, 1989. Chapter 5.

Charlesworth, H., Chinkin, C. & Wright S., "Feminist Approaches to International Law," American Journal of International Law, October 1991.

Bunch, C. "Women's Rights as Human Rights: Towards a Re-Vision of Human Rights," Human Rights Quarterly, Vol 12, no 4, 1990. pp. 486-89.

Cook, R. "The International Right to Non-Discrimination on the Basis of Sex," Yale Journal of International Law, Vol. 14, no. 1, 1989, pp. 161-81.

II. Rule of Law: The Agenda of the Human Rights Movement

Democracy and Human Rights. The role of the judiciary as guarantor of rights. Comparative criminal justice. Military Court jurisdiction. Impunity for human rights violations. Elections as the measure of human rights compliance. Mexican cases decided by the Inter-American Commission. The notion of "endemic" violations.

Required Reading

Farer, T. "Elections, Democracy and Human Rights: Toward Union," Human Rights Quarterly, Vol. 11, no. 4, 1989, pp. 504-21.

"New Challenges, New Strategies: International Human Rights and Elected Civilian Governments in Latin America," (proceedings of a conference sponsored by Washington Office on Latin America). Washington, DC: 1990.

"International Protection of the Independence of the Judicial Process," (excerpts of proceedings of the 76th Annual Meeting, American Society of International Law, April 1982).

Inter-American Commission on Human Rights, Annual Report 1989-90, OEA/Serial L/V/II.77 rev.1, doc 7. Washington, DC: Organization of American States. pp. 97-108 (Mexican cases).

Steiner, H. "Political Participation as a Human Rights," Harvard Human Rights Yearbook, Vol. 1, 1988, pp. 77-134.

Heymann, P. Testimony before Subcommittee on Western Hemisphere Affairs of the US Congress on "Options for U.S. Policy Toward Guatemala," July 17, 1990. Washington, DC.

Murray, D. "A Comparative Study of Peruvian Criminal Procedure," University of Miami Law Review, No. 21, 1967, pp. 607, 609-14, 620-23, 633-35, 639-42, 645-47.

Suggested Reading

Carter, J. "The Rule of Law and the State of Human Rights," Harvard Human Rights Journal, Vol. 4, 1991, pp. 1-10.

Carothers, T. In the Name of Democracy: U.S. Policy Toward Latin America in the Reagan Years, University of California Press, 1991, pp. 237-61.

Winn, P. "U.S. Electoral Aid in Chile: Reflections on a Success Story," Washington, DC: Washington Office of Latin America, 1990.

Rosenberg, T. "Beyond Elections," Foreign Policy, No. 84, Fall 1991, pp. 72-93.

Detzner, J. & Zalaquett, J. "A Human Rights Agenda for the Americas," (mimeo), Santiago, Oct 1987, pp. 21-41.

Washington Office of Latin America, "The Administration of Injustice: Military Accountability in Guatemala," December 1989, pp. 71-80.

Heymann, P. Appendix to Testimony before U.S. Congress, July 1990.

ARTICLE 19, World Report 1991, Chicago, Illinois: American Library Association, 1991. pp. 409-429.

Galleher, W. "State Repression's Facade of Legality: The Military Courts in Chile," Temple International and Comparative Law Journal, Vol. 2, no. 183, 1988.

Carrío, A. "Criminal Justice in Argentina: An Overview for American Readers," Procedural Restrictions on Judicial Review in Argentina, 1987, pp. 89-113.

III. Armed Conflict

Violations that take place in the context of insurgency and counter-insurgency. Can insurgents violate human rights? Principles of International Humanitarian Law: fundamental rules of combat; protection of civilians; legitimate and illegitimate targets; legitimate and illegitimate means of combat; the rule of proportionality; the matter of belligerent status. The application of International Humanitarian Law by human rights organizations and by inter-governmental bodies.

Required Reading

Common Article 3 to the Four Geneva Conventions of 1949.

Protocol II Additional to the Geneva Conventions (1977).

Pictete, J. Development and Principles of International Humanitarian Law, International Committee of the Red Cross. Geneva, Switzerland. pp. 63-78.

International Committee of the Red Cross, "Rules of International Humanitarian Law Governing the Conduct of Hostilities in Non-International Armed Conflicts" and "Declaration..." in International Review of the Red Cross, September/October 1990, pp. 383-409.

Rettig Commission, Informe de la Comisión Nacional de Verdad y Reconciliación. Santiago, Chile, 1991, pp. 15-19.

Organization of American States, General Assembly, Resolution AG/RES. 1043 (XX-0/90), "Consequences of Acts of Violence Perpetrated by Irregular Armed Groups on the Enjoyment of Human Rights," 1990.

Suggested Reading

Inter-American Commission on Human Rights, Annual Report 1990-91, OEA Serial L/V/II.79 rev. 1, doc 12, 22 Feb. 1991. Washington, DC: Organization of American States. pp. 504-514.

Americas Watch, Protection of the Weak and Unarmed: The Dispute Over Counting Human Rights Violations in El Salvador. New York, NY: 1984, pp. 2, 14-45.

Meron, T. Human Rights in International Strife: Their International Protection. Cambridge, Grotuis, 1987, Chapter 1.

Weissbrodt, D. "The Role of International Organizations in the Implementation of Human Rights and Humanitarian Law in Situations of Armed Conflict," Vanderbilt Journal of Transnational Law, Vol. 21, no. 313, pp. 315-45.

Americas Watch. The Laws of War and the Conduct of the Panama Invasion. New York, NY. May 1990.

Rodley, N. "Can Armed Opposition Groups Violate Human Rights," (mimeo), address to Conference on Human Rights in the 21st. Century, Banff, Canada, November 1990.

IV. States of Emergency

Suspension of rights and suspension of guarantees. Factual requirements and standards for derogation. Non-derogable rights. Judicial protection of freedoms. Habeas Corpus and Amparo. The need to exhaust domestic remedies before seeking international protection.

Required Reading

Questiaux, N. Study of the implications for human rights of recent developments concerning situations known as states of siege or emergency, United Nations Committee on Human Rights, (ECOSOC), E/CN.4/Sub.2/1989/15, 27 July, 1982.

Americas Watch, Brief amicus curiae to Inter-American Court on Human Rights for OC-8 Advisory Opinion (Intro and Additional Remarks).

Suggested Reading

Inter-American Court on Human Rights (IACtHR), Advisory Opinion No. OC-8, San Jose, Costa Rica, 1987.

Inter-American Court on Human Rights, Advisory Opinion OC-11, 1990.

Cornell, A. & Roberts, K. "Democracy, Counter-Insurgency and Human Rights: The Case of Peru," Human Rights Quarterly, Vol. 12, no. 4, 1990, pp. 529-553.

Dercoem S.A. v. National Government, Supreme Court (Argentina), 1982 (translation).

Grossman, C. "States of Emergency: Latin America and United States," in Constitutionalism and Rights, Henkin (ed.). New York, NY: Columbia University Press.

Americas Watch, brief amicus curiae to Inter-American Committee on Human Rights for OC-8 Advisory Opinion (mimeo, translation).

Constitution of the United Mexican States (1917 as amended), Title 1, Selected Articles; Ledesma and Mercado Pons cases (1964).

Schwartz, C., "Exceptions to the Exhaustion of Administrative Remedies under the Mexican Writ of Amparo," California Western Law Review, Vol. 7, 331, 332-39.

Judicial Review under a State of Siege: Argentina, Chile and Peru (several cases on habeas corpus and amparo; mimeo).

International Commission of Jurists (IJC), States of Emergency, Geneva, Switzerland. 1983, pp. 432-39.

Minnesota Lawyers International Human Rights Committee, Brief amicus curiae before Inter-American Court on Human Rights in Velasquez, "Exhaustion of Domestic Remedies," January 19, 1988.

V. Protection Mechanisms

Overview of UN mechanisms. Individual complaint procedures and country review. The European Convention of Human Rights and its organs. The African Charter of Human and People's Rights. The Inter-American System. The American Declaration and the American Convention as substantive sources of international law. The Inter-American Commission and the Inter-American Court: history, development and current roles. Regulations of the Court and the Commission. Ratification, reservations and understandings of international human rights instruments.

Required Readings

Van Boven, T. "Protection of Human Rights through the United Nations System," in Guide to International Human Rights Practice. Hannum, H., (ed.), Philadelphia, Penn: University of Philadelphia Press, 1984.

Kamminga, M. & Rodley, N. "Direct Intervention at the UN: NGO Participation in the Commission on Human Rights and its Sub-Commission," in Guide to International Human Rights Practice. op.cit., pp. 186-99.

Newman, F. & Weissbrodt, D. International Human Rights: Law, Policy and Process. Cincinnati, Ohio: Anderson Publishing Co., 1990, pp. 2-12.

Human Rights Watch, Four Failures: A Report of the UN Special Rapporteurs on Chile, Guatemala, Iran and Poland. New York, NY: January 1986, pp. 31-39.

Méndez, J. & Vivanco, J.M. "Disappearances and the Inter-American Court: Reflections on a Litigation Experience," Hamline Law Review, Vol. 13, no 3, Summer 1990, pp. 519-30.

Medina, C. "The Inter-American Commission on Human Rights and the Inter-American Court on Human Rights: Reflections on a Joint Venture," Human Rights Quarterly, Vol. 12, no. 4, Nov 1990.

Buergenthal, T., Norris R. & Shelton, D. Protecting Human Rights in the Americas. Kehl, Germany: Arlington Press, 1982, pp. 60-73.

Kiwanuka, R. "The Meaning of 'People' in the African Charter on Human and People's Rights," American Journal of International Law, Vol. 82, no. 1, Jan 1988, pp. 80-101.

Suggested Reading

Boyle, K. "Practice and Procedure on Individual Applications Under the European Convention on Human Rights," Guide to International Human Rights Practice. op.cit. pp. 133-52.

Cancado Trindade, A. "General Course on the International Protection of Human Rights," Revista IIDH, (San Jose, Costa Rica), No. 7, January-June 1988.

Alston, P. & Bustelo, M. Rodriguez, "Taking Stock of UN Human Rights Procedures," (Report of a January 1988 Workshop at Lake Mottouk, New York), Medford, Mass: The Fletcher School of Law and Diplomacy.

Newman & Weissbrodt, International Human Rights, op.cit., pp. 365-406.

UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Resolution 39/46 G.A. (A/39/15), 10-12-1984.

Buergenthal, T. "The Inter-American System for the Protection of Human Rights," Human Rights in International Law: Legal and Policy Issues, T. Meron (ed.), Clarendon, Oxford, 1984.

McNulty, A. "European Convention for the Protection of Human Rights and Fundamental Freedoms: Selected Cases," The British Institute for Human Rights, London, UK.

The African Commission on Human and People's Rights, "Summary Report of Conference," June 1991, pp. 43-57.

VI. The Inter-American System (con't)

Cases of urgent actions by the Commission; in loco visits (Argentina); country reports; case studies and individual complaint procedure. The Court: advisory and contentious jurisdiction. Precautionary measures as a form of injunctive relief in international law: Bustiós and Chunimá cases. The effectiveness of the Inter-American system.

Required Reading

Buergenthal, Norris & Shelton, Protecting Human Rights in the Americas, op.cit. pp. 28-44, 188-97, 240-42, 291-300, 316-47, 386-90, 456-62.

Suggested Reading

Newman & Weissbrodt, International Human Rights, op.cit. pp. 294-302.

Inter-American Commission on Human Rights, The Situation of Human Rights in Cuba. Seventh Report. OEA/Ser.L/V/II.61, doc 29, Rev. 1, Oct 4, 1983. Washington, DC: Organization of American States. pp. 8-14.

Inter-American Court of Human Rights, Decision on Provisional Measures, Case no. 10,548 (Bustiós).

Inter-American Court on Human Rights, Decision on Provisional Measures, Case no. 10,674 (Chunimá).

VII. Disappearances

Concept and cases. Efforts to define the illegality of disappearances under international law: resolutions by the General Assemblies of the OAS and UN; draft conventions and declarations. Early IACHR actions against disappearances. Successful litigation: the first exercise of the contentious jurisdiction on the Inter-American Court on Human Rights. The Velázquez and Godínez decisions: substantive and procedural precedents. Inter-American Committee on Human Rights actions on disappearances: the cases of Lalinde (Columbia) and Rivas Hernández (El Salvador).

Required Reading

Inter-American Court on Human Rights, Velásquez Rodríguez Case, Judgement, July 29, 1988. Series C, no. 4.

Inter-American Court on Human Rights, Godínez Cruz Case, Preliminary Objections. Judgement of June 26, 1987. Series C, no. 3.

Méndez & Vivanco, "Disappearances and the IAC..." op.cit. pp. 508-18, 535-57.

Buergenthal, Norris & Shelton, Protecting ..., op.cit. pp. 225-39.

UN Committee on Human Rights, Draft Declaration on the Protection of All Persons from Enforced Disappearance, E/CN.4/1991/WG.10/CRP.3/Rev.1/Corr., 8 November 1991.

Human Rights Watch, "Inter-American Court Finds Honduras Responsible for Disappearance," (news bulletin), No. 3, July/August 1988.

Suggested Reading

Inter-American Committee on Human Rights, "A Study About the Situation of Minor Children of Disappeared Persons Who Were Separated from their Parents and Who are Claimed by Members of their Legitimate Families," in Annual Report 1987-88, OEA/Ser.L/V/II.74, doc 10, rev.1, 16 September 1988. Washington, DC: Organization of American States. pp. 331-45.

Inter-American Committee on Human Rights, "Draft Inter-American Convention on Forced Disappearance of Persons," Annual Report 1987-88, op.cit. pp. 346- 55.

Inter-American Committee on Human Rights, Resolution no. 24/87, Case no. 9620 - Colombia (Lalinde case), in Annual Report 1987-88, op.cit. pp. 112-31.

Inter-American Commission on Human Rights, Resolution no. 28/88, Case no. 9844 - El Salvador (Rivas Hernández case), Annual Report 1987-88. op.cit. pp. 140-45.

Amnesty International-USA, Disappearances: A Workbook. New York, NY. 1981, pp. 75-89, 119-68.

VIII. Disappearance (con't), Extrajudicial Executions and Torture

The Fairén and Solís decision: Court finding in favor of Honduras. How to make a specific disappearance fit the pattern. Extrajudicial execution and torture: definitions, cases. What constitutes torture? Political murder: the role of agents of the State. The institutional response as a measure of acquiescence or deliberateness. Complaint procedure created by the UN Convention Against Torture. Early decisions: Argentina. Torture in the Velásquez case. Actions by the IACHR on extrajudicial executions: country reports. The Suriname, El Frontón and Cayara cases. López, Osvaldo (Argentina).

Required Reading

Inter-American Court on Human Rights, Fáiren Garbí and Solís Corrales Case, Judgement of March 15, 1989, Series C, on. 6.

Méndez & Vivanco, "Disappearances and the IAC ..." op. cit., pp. 540-41, 544-46.

Schirmer, J. "The Guatemalan Military Project: An Interview with General Hector Gramajo," Harvard International Review, Vol. XIII, no. 3, Spring 1991.

United Nation, Manual on the Effective Prevention and Investigation of Extra- Legal, Arbitrary and Summary Executions. UN, 1991, pp. 4-14, 43-45.

Inter-American Commission on Human Rights, Resolution no. OIa/88, Case no. 9755 - Chile (Rodrigo Rojas case), September 12, 1988, Annual Report 1987-88. op.cit., pp. 132-39.

Suggested Reading

Amnesty International, Torture in the Eighties. London, UK. 1984. pp. 1-48.

UN Committee Against Torture, Decisions Under Article 22 of the Convention Against Torture. CAT/C/3/D/1, 2 and 3/1988, Appdx., pp. 1-7.

Inter-American Commission on Human Rights, Resolutions on El Frontón and Cayara cases (Peru), 1991 (publication forthcoming).

Boulesbaa, A. "The Nature of the Obligations incurred by States under Article 2 of the UN Convention against Torture," Human Rights Quarterly, Vol. 12, no. 1, 1990.

IX. Role of Non-Governmental Organizations in a Litigation Context

The role of the victim in international human rights litigation. Developments in Europe and in the Inter-American system. Present status and future prospects. The role of NGOs as complainants and as counsel for the victims. The attacks on the credibility of human rights organizations.

Required Reading

Méndez & Vivanco, "Disappearances and the IAC . . .," op.cit. pp. 530-534.

Méndez, J. Human Rights in South America in the Early 90s, (paper submitted to Ford Foundation; mimeo), January 1, 1990, pp. 4-8, 26-29.

Weissbrodt, D. "The Contribution of International Non-Governmental Organizations to the Protection of Human Rights," in Human Rights in International Law: Legal and Policy Issues, T. Meron (ed.). pp. 403-29.

Steiner, H. Diverse Partners, Harvard Law School Human Rights Program and Human Rights Internet, Cambridge, Mass: 1991, pp. 61-70.

Leckie, S. "An Overview and Appraisal of the Fifth Session of the UN Committee on Economic, Social and Cultural Rights," Human Rights Quarterly. Vol. 13, no. 4, 1991. pp. 566-572.

UN Committee on Economic, Social and Cultural Rights, Report on the Fifth Session. E/C.12/1990/8 Supplement No.3, pp. 55, 60-64.

Suggested Reading

Weissbrodt, D. "Strategies for Selecting and Pursuing International Human Rights Matters," Hannum, Guide to International Human Rights Practice. op.cit. pp. 20-45.

Kondracke, M. (et al.) "Human Rights or Politics? Broken Watch," The New Republic, August, 22, 1988; and "Correspondence," The New Republic, October 3, 1988.

X. Fact-Finding and Methodological Problems on Litigation

Rules governing fact-finding by the IACHR; on site visits and case research. Fact-finding by NGOs; controversy over facts and research methodology. Methodology as a requirement of impartiality. IACHR: fact-finding in Velásquez. IACHR: the El Aguacate case (Guatemala).

Required Reading

Organization of American States (OAS). Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L. V/II.71, 23 September 1987, pp. 84-97 (Commission) & pp. 128-29 (Rules of the Court).

Inter-American Commission on Human Rights, Annual Report 1990-91, Report no. 6-91, Case 10,400 - Guatemala, (El Aguacate case), pp. 193-223.

Orentlicher, D. "Bearing Witness: The Art and Science of Human Rights Fact-Finding," Harvard Human Rights Journal, Vol. 3, Spring 1990, pp. 83-135.

Gros Espiell, H. Report of the Expert on Guatemala. UN Committee on Human Rights, E/CN.4/1988/42, 10 December 1987.

International Commission of Jurists & Radda Barnen, UN Assistance for Human Rights. Geneva, Switzerland. September 1988. pp. 139-48.

Perez de Cuellar, J. Reports of the Special Rapporteur on Uruguay. UN Committee on Human Rights, E/CN.4/R.50/Add.2, 14 February 1980, pp. 6-11 and E/CN.4/R.67/Add.3, 10 February 1981, pp. 1-5.

Suggested Reading

Weissbrodt, D. & J. McCarthy, J. "Fact-Finding by International Non-governmental Human Rights Organizations," Virginia Journal of International Law, Vol. 22, no. 1, Fall 1981, pp. 1-89.

Ramcharan, B. (ed.) International Law and Fact-Finding in the Field of Human Rights. Hingham, Mass: M. Nijhoff Publishers, 1981.

Kennedy, David, "Spring Break," Texas Law Review, Vol. 63, no. 8, May 1985. pp. 1377-1423.

XI. Evidentiary Standards

Rules governing NGO fact-finding and rules attaching to international law litigation. Dictum in Velásquez, citations. Burden of proof and evidentiary standard: difficulties in comparative law. "Beyond a reasonable doubt" and "preponderance of the evidence" and their equivalence in civil law jurisdictions. Apreciación en conciencia, sana crítica and pruebas tasadas: their relevance in international litigation. Means: the use of expert witnesses, and of technological advances (video, etc.). The possibilities of forensic anthropology. How and when to prove systematic patterns. Protection of evidence (witnesses and documents). Cases.

Required Reading

Inter-American Court of Human Rights, Velásquez judgement on merits, op. cit.

Association of the Bar of the City of New York, "Questions of Proof in the Cases of Velásquez, Godínez and Fairén," brief amicus curiae, June 8, 1988.

Lawyers Committee for Human Rights, "Questions of Witness Protection under Art. 63.2 of the American Convention of Human Rights," brief amicus curiae in Velásquez, July 8, 1988.

Méndez & Vivanco, "Disappearances and the IAC...", op. cit. pp. 553-56.

Suggested Reading

Lawyers Committee for Human Rights, "Concerning the Perjury of Witnesses ...," brief amicus curiae in Velásquez, June 30, 1989.

Stover, E. & C. Joyce, C. Witness from the Grave: The Stories Bones Tell. Boston, Mass: Little Brown and Co., 1991.

XII. Damages and Compensations

Compensation as a remedy for victims of human rights violations. Different forms of reparation. Domestic standards and international law requirements. Reparations in international law. Reparations in the American Convention. The IACHR treatment of reparations for disappearance (Velásquez and Godínez). The matter of punitive damages. Enforcement of international judgements. The Letelier case.

Required Reading

Inter-American Court of Human Rights, Velásquez Rodríguez Case, Compensatory Damages, Judgement of July 21, 1989, Series C no. 7.

Filártiga v. Peña Irala, 557 F. Supp 860 (E.D. N.Y. 1984)
(excerpted in Newman & Weissbrodt, International Human Rights,
op.cit. pp. 651-54).

Lutz, E. "After the Elections: Compensating Victims of Human Rights Abuses," in Lutz, Hannum & Burke (eds.), New Directions in Human Rights, Philadelphia, Penn: University of Pennsylvania Press, 1989.

van Boven, T. "Study Concerning the Right to Restitution, Compensations and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms," UN Committee on Human Rights, E/CN.4/Sub.2/1990/10, 26 July 1990.

International League for Human Rights, "The Long Road to Justice: A Report on the Letelier-Moffitt Case," New York, NY. September 1991. pp. 8, 33-36.

Méndez & Vivanco, "Disappearances and the IAC..." op.cit. pp. 565-73.

Suggested Reading

Muller-Rappard, E. "Perspectives on the Council of Europe's Approach to the Issue of Basic Principles of Justice for Victims of Crime," Human Rights Quarterly, Vol. 12, no. 2, May 1990.

Archambault, J.D. et al. "Sobre la Reparación de las Consecuencias de las Violaciones a los Derechos Humanos y la Justa Indemnización que Prescribe el Artículo 63.1 de la Convención Americanan Sobre Derechos Humanos," Brief amicus curiae in Velásquez, March 10, 1989.

XIII. State Responsibility

The "institutional response" notion. Its application in politically-motivated crimes and in "endemic" violations. Paramilitary forces and the dilution of state responsibility. The responsibility of third-party states. Responsibility of successor governments for crimes committed by predecessor regimes: political, ethical and legal implications. Is there an obligation in international law to prosecute and punish? The notion of crime against humanity and its legal effects. Lessons drawn from recent Latin American experiments with Truth and Justice. Actions and rulings by the IACtHR and the IACHR on issues of impunity. Cases.

Required Reading

Rodley, N. "The International Legal Consequences of Torture, Extralegal Executions and Disappearances," in Lutz, Hannum & Burke, New Directions..., op.cit.

Orentlicher, D. "Settling Accounts: The Duty of Prosecute Human Rights Violations of a Prior Regime," Yale Law Journal, Vol. 100, no. 8, 1991, pp. 2537-2619 (selected passages).

Zalaquett, J. "Confronting Human Rights Violations Committed by Former Governments: Principles Applicable and Political Constraints," in State Crimes: Punishment or Pardon, Aspen Institute, 1989. pp. 23-65.

Suggested Reading

Joinet, L. "Study of Amnesty Laws and Their Role in the Safeguard and Promotion of Human Rights," UN Committee on Human Rights, E/CN.4/Sub.2/1989/16, 21 June 1985.

Americas Watch, Truth and Partial Justice in Argentina: An Update, New York, NY. 1991.

Zalaquett, J. The Ethics of Responsibility: Human Rights, Truth and Reconciliation in Chile, Washington, DC: Washington Office of Latin America. 1991.

Roht-Arriaza, N. "State Responsibility to Investigate and Prosecute Gross Human Rights Violations in International Law," California Law Review. Vol. 78, no. 2, 1990, pp. 449-514.

Human Rights Watch, "Special Issue: Accountability for Past Human Rights Abuses," (newsletter), No. 4, New York, NY. December 4, 1989.

Dahl, E. & Garro, A. "Introductory Note," International Legal Materials, Vol. 26, March 1987, p. 317 ff.

Mignone, E., Eslund, C. & Issacharoff, S. "Dictatorship on Trial: Prosecution on Human Rights Violations in Argentina," Yale Journal of International Law, Vol. 10, no. 1, 1984, pp. 118-150.

Thiam, D., "Eighth Report on the Draft Code of Crimes Against the Peace and Security of Mankind," UN International Law Commission, A/CN.4/430, 8 March 1990.

XIV. International Human Rights Litigation Before United States Courts

The Filártiga precedent. Torts against the "law of nations". The progeny of Filártiga. The Tel-Oren case. The cases against Suárez Mason. Defectores as asylum-seekers. Extradition of defectors: Joya Martínez. Florencio Caballero as witness in Velásquez.

Required Reading

Steinhardt, R., "Human Rights Litigation and the 'One-Voice' Orthodoxy in Foreign Affairs," in Mark Gibney (ed.), World Justice? Boulder, Colorado: Westview Press. 1991. pp. 23-58.

Terry, J. "Torture Victims: Rights and Remedies under United States Law," Harvard Human Rights Yearbook. Vol. 2, Spring 1989, pp. 169-78.

Cases: Filártiga v. Peña Irala, 630 F.2nd 876; Tel-Oren v. Lybian Arab Republic, 726 F.2nd 774; Forti v. Suárez Mason (I), 672 F.Supp. 1531 (N.D. Cal. 1987); Forti v. Suárez Mason (II), 694 F.Supp. 707, (N.D. Cal 1988)

Americas Watch, El Salvador: Extradition Sought for Alleged Death Squad Participant, (News from Americas Watch), August 1991.

Suggested Reading

Lillich, R. "The Role of Domestic Courts in Enforcing International Human Rights Law," in Hannum, Guide to International Human Rights Practice. op.cit.

Rogers, J. "International Human Rights Law and U.S. Law," in Gibney, World Justice?, op.cit., pp. 107-22.

Newman & Weissbrodt, International Human Rights, op.cit. pp. 553-680.

Human Rights

An elective course developed by Prof. Hernan Montealegre, and offered in the Faculty of Law, Diego Portales University, Chile (1992)

Course Outline

1. The concept and classification of human rights.
2. The human being as a subject of international law.
3. The state as subject obligated to respect human rights.
4. Human rights, the state of law, and constitutional order.
5. The history of human rights declarations.
6. The evolution of the concept of human rights: Western, Socialist and Third World critiques.
7. The state of war, the "doctrine of national security", and human rights.
8. The integral concept of state security.
9. Human Rights Sources:
 - (a) The United Nations Charter.
 10. (b) The Universal Declaration of Human Rights.
 11. (c) The 1947 Principles of Nuremberg.
 12. (d) The Geneva Conventions of 1949.
 13. (e) UN Covenant on Civil and Political Rights.
 14. (f) UN Covenant on Economic, Social and Cultural Rights.
 15. (g) The European and American Conventions on Human Rights.
 16. (h) The Convention on Torture.
17. Human Rights as a social liberation program.
18. The international system of human rights protection.
19. The Inter-American system of protection from particular violations.
20. The Inter-American system of protection from mass violations of human rights.
21. States of exception and human rights.
22. The right of the self-determination of peoples as a human right.
23. The right to development as a human right.
24. Human rights as a criteria for legitimacy in a social order.

International Human Rights Law

Proposal for a course in to be offered at Diego Portales University, Santiago, Chile, developed by Prof. Cecilia Medina (1992)

Objectives:

The proposed course is a one semester (40 hours) course, designed for students who already have a basic knowledge of international law. Since international human rights law requires a unique legal reasoning, in addition to an understanding of legal norms, it is important that students develop a certain sensitivity that cannot be acquired from simply reading books. For this reason, active participation of the students in a seminar setting will be an important element in the learning process. Students will be expected discuss their research projects amongst themselves and under the guidance of the professor. In selecting their research topics, preference will be given to those that will help the student appreciate the importance of international law in a practical sense.

Course Outline

I. Historic development of International Human Rights Law

Lectures on the following themes:

- (i) the development of the notion of human rights within states;
- (ii) human rights and the sovereignty of the state:

- diplomatic immunity
- humanitarian intervention
- the protection of minorities
- the abolition of slavery
- humanitarian law.

II. General Principles

A combination of lectures and analysis of hypothetical cases concerning:

- (i) the principle of non-discrimination
- (ii) the tension between liberty and equality
- (iii) the state of law

III. The Diverse Categories of Laws

Lectures and analysis of hypothetical cases will also be used in combination to discuss the utility of categorizing human rights. The following categories of human rights that are currently in use will be studied:

- (i) civil and political rights
- (ii) economic, social and cultural rights
- (iii) individual and collective rights

IV. The International Protection of Human Rights

Using the same methodology, the following will be discussed: the role of governmental and non-governmental organizations; and the role of politics in determining the conduct of states in the area of human rights.

V. The United Nations

- a) The development of international human rights law at the universal level would begin with a discussion of the following:
- (i) from the adoption of substantive norms and the promotion of human rights to the protection of human rights;
 - (ii) the International Bill of Human Rights: the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights.
- b) The United Nations system of human rights protection would be studied through case studies on the following themes:
- (i) procedure for the protection of human rights under the Charter of the UN: massive and systematic human rights violations;
 - (ii) procedure for the protection of human rights under the International Covenant on Civil and Political Rights: isolated violations;
 - (iii) procedure for the protection of human rights under the International Covenant on Economic, Social and Cultural Rights.

VI. The European System of Human Rights Protection

- a) The analysis would begin with a description of the historic and political context within which the Council of Europe and the European Economic Community were established and developed.
- b) Thereafter, the precedents of the European Commission would be studied together with the jurisprudence of the European Court. Students will do short research projects on the following themes:
- (i) the obligations of states under the European Convention of Human Rights;
 - (ii) the reach and content of those rights protected;
 - (iii) the regional organs of control of the rights protected by the Convention: the European Commission and the European Court of Human Rights, as well as the Committee of Ministers of the Council of Europe; the role of the Secretary General of the Council of Europe; the potential role of the Parliamentary Assembly of the Council of Europe;
 - (iv) the procedure for control: individual petitions; inter-state communications.
- c) The study of the system would end with a discussion of its effectiveness.

VII. The Inter-American System of Human Rights Promotion and Protection

a) The study of this system would begin with an analysis of the political context within which the inter-American system was established and developed, in order to later examine the following themes:

- (i) the constitutional and political aspects of the Organization of American States (OAS);
- (ii) the origin and development of the principle of respect for human rights, as well as the democratic principle in the inter-American system.

The methodology here will consist primarily of lectures. The objective of this section is to provide the student with a basic historic understanding of the factors which have influenced the system, and those which may influence the system in the future, in both a positive and negative way.

b) Through a combination of lectures, research projects and discussion groups, this segment of the course will analyze the system of promotion and protection of human rights under the Inter-American Commission in the period prior to the coming into force of the American Convention in 1978. This is an excellent example of how international human rights law comes into being. The themes to be dealt with would comprise:

- (i) initial functions and authority of the Commission;
- (ii) the de facto development of its authority;
- (iii) the extension of its authority as a result of the Second Extraordinary Inter-American Conference;
- (iv) the Commission as an organ of the OAS.

c) Using the same methodology, the course will analyze the legal norms embodied in the American Convention on Human Rights, as illustrated by the advisory opinions and decisions of the Inter-American Court. The themes to be explored will comprise:

- (i) common characteristics of human rights treaties;
- (ii) special rules of interpretation of the Convention;
- (iii) the obligations of the states parties;
- (iv) the rights protected by the Convention: formulation; possibilities and limits of restrictions; its derogation.

d) Using the same methodology, the work of the Inter-American Commission, in its double role as organ of the Charter of the OAS and organ of the Convention, will be studied:

- (i) its composition and function;
- (ii) the role of promotion;
- (iii) the role of protection: the examination of individual petitions or interstate communications; the examination of the general situation of human rights in a particular state.

e) Using the same methodology, the class will undertake an analysis of the Inter-American court of Human Rights:

- (i) composition and function;
- (ii) the contentious jurisdiction of the Court;
- (iii) its non-contentious jurisdiction: the interpretation of human rights treaties - compatibility of domestic legal norms with human rights treaties.

f) The analysis of the system will end with an examination of the reports prepared by the political organs of the OAS in the course of promoting and protecting human rights, and through the examination of specific cases studies. This will be followed by a discussion of the role of the political organs could play in improving the system.

g) Finally, there will be a general evaluation of the Inter-American system and projections for the future.

Human Rights and International Humanitarian Law

Course developed by Filipino scholar, Prof. Reynaldo R. Ty, and taught in the the Department of Political Science, College of Social Sciences and Philosophy, University of the Philippines (1992-93)

Course Outline and Readings

Topics marked with an asterisk (*) were given by guest lecturers.

Required Texts

The Geneva Conventions of August 12, 1949. International Committee of the Red Cross, Geneva. 1977.

Ty, Reynaldo R. (ed.). International Human Rights Laws and Principles. Quezon City: Task Force Detainees of the Philippines. 1989. 240 pp.

Ty, Reynaldo R. Philippine Encyclopedia of Human Rights and Duties. (Draft) Quezon City, Center for Integrative and Development Studies, University of the Philippines, 1992.

Ty, Reynaldo R. (ed.). Truth and Freedom: Understanding and Teaching Human Rights. Quezon City: Task Force Detainees of the Philippines, 1990.

Part I. Human Rights Realities

Unless otherwise stated, reading for Part I section are from Truth and Freedom, op.cit.

1. Situation and Response

- a. Draft Philippines Declaration on Human and People's Rights
- b. Manifesto on Human Rights and Natural Survival

Ty, "Draft. Philippines Declaration on Human and People's Rights," Daily Globe, December 10, 1990, whole page.

2. Framework

- a. Framework of Analysis for the Study of Human Rights
- b. People's Cultural and Neocolonial State*
- c. Human Rights Pedagogy

Ty, "Filipino Conception of Human Rights," Philippine Human Rights Update, July-August 1987, p. 15.

Ty, (series of articles in Philippine Human Rights Update: "Human Rights: Concept and Advocacy in the Philippines," July 15- August 14, 1989, pp. 18-20; "Morality and Ethics," August 15-September

14, 1989, pp. 17-20; and, "Moral Values," September 15-October 14, 1989, pp. 16-20.

3. Historical Development of Human Rights

- a. Divine Right of Kings
- b. Evolution of the Philosophy of Rights

Ty, (series of articles on French Revolution in) Philippine Human Rights Update: "Lessons from the French Revolution," November 15-December 14, 1989, pp. 16-27; "Calling for Liberté Egalié, Fraternité!" October 15-November 14, 1989, pp. 18-21; "Bicentenary of the French Revolution," November 15-December 14, 1989; "The French Revolution and the Philippines Today," February 15-March 14, 1990, pp. 20-21.

Ty, "Human Rights in Perspective," Collegian Folio, Quezon City: Philippine Collegian, July 1986.

Ty, (three part article in) Philippine Human Rights Update: Part 1, "Divine Rights of Kings," April 15-May 14, 1990, pp. 18-20; Part 2, "Divine Right: This Land is Mine," May 15-June 14, 1990, pp. 20-23; and Part 3, "Divine Right: This Land is Mine," June 15-July 14, 1990, pp. 18-20.

4. International Situation

- a. Global Perspective of the Low-Intensity Conflict
- b. International Human Rights Networks*
- c. Latin American Situation*
- d. Philippine Human Rights Situation and the Role of Alliances and Organizations*

"Draft Resolution on Displacement and Dispossession addressed to ASEAN Governments." Conference on Displacement and Dispossession of Communities in the ASEAN region, sponsored by the Regional Council on Human Rights in Asia, Bangkok, Thailand, 29 November 1990.

Ty, "Low Intensity Conflict," Journal, Forum for Rural Concerns (FRC), 1985, 4th quarter edition.

Ty, A Global Perspective on Low-Intensity Conflict: Total War at the Grassroots Level. Manila: National Council of Churches in the Philippines - Human Rights Desk, 1987.

Ty, "A Global Perspective on Low-Intensity Conflict," (series of articles in:) Philippine Human Rights Update: Part 1, August-September 1987, pp. 13, 20, 22; Part 2, September 1987, special issue, pp. 16-18; Part 3, October 1987, pp. 10-11; Part 4, "How Low-Intensity Conflict Intelligence Works," October 1987, pp. 12-13, 22.

Ty, "International Economic, Political, Military and Social

Realities," Manual for Human Rights Speakers, Quezon City: Task Force Detainees of the Philippines - Luzon, 1987.

5. Response to International Situation

- a. Armed Conflict in the World*
- b. The Palestine Question: A People's Struggle*

Ty, "The 1991 Gulf War and its Linkage to the Question of Palestine," Palestine Watch, No. 1, Quezon City: Society for Philippine-Palestine Unity, July 1991.

Ty, "International Law and its Exigency in the Conduct of the 1991 Gulf Crisis," Palestine Watch, No 2, Quezon City: Society for Philippine-Palestine Unity, July 1991.

Ty, "Children, Women and Men Abused: Human Rights Violations Committed Against a People," Palestine Update, p. 7.

"Statement on the Philippine Recognition of the State of Palestine," Palistina, Vol. 1, no. 3, November-December 1989.

6. The Philippines and the World

- a. Human Rights and the U.S. Military Bases*
- b. Position Paper on Foreign Debt*
- c. Comparative Study of the Philippines and Latin America on Law and Human Rights*

7. Philippine Situation

- A. An Assessment of the Aquino Government*
- B. Total War*

Ty, "Philippine Environmental Situation," Philippine Human Rights Update, August 15-September 14, 1990), pp. 18-23.

8. Sectoral and Group Situation

- a. Gender Inequality and its Supporting Ideologies in Philippine Society*
- b. Rural Women of the Philippines: Some Notes on their Current Status and Problems*
- c. Children's Situation in the Philippines*

Ty, "The Struggle of Women," Philippine Human Rights Update, Part 1, February 15-March 14, 1989, pp. 18-21; Part 2, March 15-April 14, 1989, pp. 20-21.

9. National Legislation

- a. Human Rights and the Law
- b. Economic Theories and Policies
- c. Applicability of the Geneva Conventions of 12 August 1949 and

their 1977 Additional Protocols

d. Protocol II additional to the Geneva Conventions, 12 August 1949 and Relating to the Victims of Non-International Armed Conflict

Ty, "Economic Recovery and Human Rights," in Social Science and the Economic Recovery, Allen L. Tan, Ruperto P. Alonzo and Alex B. Brillantes, Jr., (eds.), pp. 191-97.

10. Call to Action

- a. DECS and Human Rights*
- b. Teaching Human Rights to Child Victims of Human Rights Violations*
- c. Teaching Human Rights*

Part II: Human Rights Laws

Unless otherwise stated, readings in this section are from International Human Rights Laws and Principles.

1. International Standards and Agreements on Human Rights and Humanitarian Law

Ty, "Criteria for the Application of Human Rights and Humanitarian Law," Philippine Human Rights Update, October 15-November 14, 1987, pp. 14-17.

Ty, "International Standards and Agreements on Human Rights and Humanitarian Law".

2. General Application

a. Universal Instruments

- Charter of the United Nations
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Optional Protocol to the International Covenant on Civil and Political Rights
- Universal Declaration of the Rights of Peoples
- Proclamation Teheran

b. Regional Instruments

- Asia Forum on Human Rights
- Declaration of the Basic Duties of Asian Peoples and Governments
- African Charter on Human and Peoples Rights
- American Convention on Human Rights
- European Convention for the Protection of Human Rights and Fundamental Freedoms
- Protocol No 1 to the European Convention
- Protocol No 4 to the European Convention

c. 1987 Philippine Constitution

- Bill of Rights

- Commission on Human Rights

3. Specific Applications

a. Right of Self-Determination

- General Assembly Resolution 1803 (XVII) of 14 December 1962, "Permanent Sovereignty over Natural Resources".

b. Prevention of Discrimination

- Declaration on the Elimination of All Forms of Discrimination
- International Convention on the Elimination of All Forms of Racial Discrimination
- Discrimination (Employment and Occupation) Convention
- Convention Against Discrimination in Education
- Declaration on the Elimination of Discrimination Against Women

c. Human Rights in the Administration of Justice: Protection of Persons Subjected to Detention or Imprisonment

- Standard Minimum Rules for the Treatment of Prisoners
- Declaration on the Protection of All Persons from being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Code of Conduct for Law Enforcement Officials
- Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Safeguards Guaranteeing Protection of the Rights of those facing the Death Penalty
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules")
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- Basic Principles on the Independence of the Judiciary

4. Freedom of Association: Freedom of Association and Protection of the Right to Organize Convention

Part III: International Humanitarian Law

1. The Geneva Conventions of August 12, 1949

a. Types of Armed Conflict

- International Armed Conflict
- Armed Conflict Not of an International Character

b. Protection

- War in the Battlefield
- War at Sea
- Prisoners of War
- Civilian Population

2. Protocols Additional to the Four Geneva Convention

a. Types of Conflict

- Non-Armed Conflict Situations
- Internal Strife
 - i. Internal Disturbances
 - ii. Internal Tensions
- Non-International Armed Conflict
- War of National Liberation
- International War

b. Protection

Part IV: What is to be Done?

Ty, Peace Manifesto: An Agenda for the World, Quezon City: Program Unit on International Affairs, National Council of Churches in the Philippines, 1990.

8. Indigenous Peoples and the Environment

Garth Netteim, "Peoples and Populations: Indigenous Peoples and the Rights of Peoples," in Crawford.

Glenn Morris, "Towards a Right to Self-Determination for Indigenous People," Global Justice, Vol. 1, no. 3, October/November 1990.

Andrew Gray, "Indigenous Peoples and the Marketing of the Rain Forest" The Ecologist, November 1, 1990, Vol. 20, no. 6.

Ward Churchill, "American Indian Lands: The Native Ethic Amid Resource Development," Environment, Vol. 28, no. 6, July/August 1986.

9. The Right to Development and the Greens

Roland Rich, "The Right to Development; A Right of Peoples?" in Crawford.

Ved Nanda and Eileen McCarthy-Arnolds, "The Right to Development: an Appraisal of its Potential," manuscript Debt and the Human Condition.

Fritjof Capra and Charlene Spdretnak, Green Politics, New York: Dutton, 1984, Parts 2 and 3.

Brian Tokar, "The Green Alternative: Creating an Ecological Future," Parts I and III.

Peter Weiss, Chap. 2.

4. Gender and New Movements

- Barbara Epstein, "Political Protest and Cultural Revolution" Chap. 5, in Amin.
- Ethel Klein, Gender Politics, From Consciousness to Mass Politics, Cambridge, Mass.: Harvard University Press, 1984.
- E.M. Meehan, Women's Rights at Work, Campaigns and Policy in Britain and the United States, London: MacMillan, 1984.
- Stephanie Urdang, And Still They Dance: Women, War and the Struggle for Change in Mozambique, New York: Monthly Review Press, 1989.
- Jeanne Vickers, Women and the World Economic Crisis. London: Atlantic Highlands, 1991.

5. Civil Democracy and Repression

- Helsinki Watch, From Below: Independent Peace and Environmental Movements.
- Vaclav Havel, "The Future of Central Europe," New York Review of Books, March 29, 1990.
- Penny Lernoux, Cry of the People, New York: Doubleday, 1980, Chap. 5.
- The Human Rights Watch, Special Issue, "The Crackdown in China", No. 3, 1989.
- ACAS Bulletin, "Democratization in Africa," Winter 1991
- Africa Demos, February 1991.

6. Non-violence Movements

- Sumata Banerjee, "Tuning Our Ears to Discord: Response of the Democratic Rights Movement to the Question of Violence," in ed. Smitu Kothari, Re-Thinking Human Rights. Mubarak-Awad in In the Footsteps of Gandhi, ed. Catherine Ingram
- Africa Watch, "No Neutral Ground: South Africa's Confrontation with the Activist Churches".

7. The New Self-Determination

- Hurst Hannum, Autonomy, Sovereignty and Self-Determination, Philadelphia, Pennsylvania: University of Pennsylvania Press, 1990, Chap. 1.
- Ved Nanda, "Self-Determination Under International Law: Validity of Claims to Secede," Case Western Reserve Journal of International Law, Vol. 13, no. 1, Winter, 1981, pp. 257-80.
- George W. Shepherd, "The War on the Horn Among Tributary States," Chap. 3, The Trampled Grass.
- Frank Gaffikin, Northern Ireland: The Thatcher Years, Chap 11 and Conclusion.
- Human Rights Watch, Evading Scrutiny: Violation of Human Rights After the Closing of Tibet, July 1988.

**Capstone in Human Rights:
People's Rights and the Democratic Revolution**

Course developed by Prof. George Sheperd (USA), Graduate School of International Realitions, University of Denver, Denver, Colorado (1992)

Texts:

James Crawford, The Rights of Peoples, New York: Oxford University Press, 1988.

Samir Amin, et al. Transforming the Revolution, New York: Monthly Review Press, Zed, 1990.

Course Outline

1. Debate over Collective Rights

A. Belden Fields and Wolf-Dieter Narr, "Human Rights as a Holistic Concept, Human Rights Quarterly, Feb 1992, Vol.. 14, no. 1, pp. 1-21.

Peter Baehr and Ko VanderWal, "Human Rights as Individual and Collective Rights" Human Rights in a Pluralist World, ed. Jan Berting, et al., Roosevelt Study Center, 1990, pp. 33-38.

Jack Donnelly, "Human Rights, Individual Rights and Collective Rights", in Berting, op.cit., pp. 17-38.

Ian Brownlie, "The Rights of Peoples in Modern International Law," Crawford, pp. 1-16.

Richard Falk, "The Rights of Peoples (In Particular Indigenous Peoples)" in Crawford, pp. 17-38.

Gillian Triggs, "The Rights of People and Individual Rights: Conflict or Harmony?" in Crawford, pp. 141-58.

2. Theory of New Democratic Movements

Immanuel Wallerstein, "Antisystemic Movements: History and Dilemmas," in Amin.

Russel J. Dalton, Introduction, Challenging the Political Order: New Social and Political Movements in Western Democracies, New York: Oxford University Press, 1990.

Karl Werner Brand, Chap. 2, "Cyclical Aspects of New Social Movements," in Dalton, op.cit.

Samir Amin, "The Social Movements in the Periphery: An End to National Liberation?" in Amin.

Marta Fuentes and Gunder Frank, "Civil Democracy," in Amin.

3. Minority Rights Consciousness

George W. Sheperd, "Ethnicity and Race: New Social Movements." Paper prepared for a conference, March 27, 1992, Denver University.

Vincent Harding, Hope in History, 1990. Introduction, Chap. 1-2.

George W. Sheperd and Dave Penna, "Racism and the Underclass," Chap. 1, 9.

Davis, Shelton H. "Introduction: Sowing the Seeds of Violence," in Harvest of Violence: The Maya Indians and the Guatemalan Crisis, Robert M. Carmack (ed).

Churchill, Ward, "The Earth is Our Mother: Struggles for American Indian Land and Liberation in the Contemporary United States," in The State of Native America, Jaimes (ed.).

Varese, Sefano, "Think Locally, Act Globally," NACLA Report on the Americas, Vol. 25, no 3, December 1991.

Lifton, Robert Jay. The Nazi Doctors, New York: Basic Books, 1986, chapters 19-21.

Pion-Berlin, David & Lopez, George A., "Of Victims and Executioners: Argentine State Terror, 1975-79," International Studies Quarterly, 1991.

Simonds, A.P. "Ideological Domination and the Political Information Market," Theory and Society, March 1989.

7. Censorship

Jansen, Sue Curry. Censorship: the Knot that Binds Power and Knowledge.

8. Domination and Repression of Women

Lerner, Gerda. The Creation of Patriarchy, New York: Oxford University Press, 1986. Introduction, chapters 2 and 11.

Mies, Maria. Patriarchy and Accumulation on World Scale, London: Atlantic Highlands, 1986. Chapters 2 & 5.

Walby, Sylvia, "Theorising Patriarchy," Sociology, May 1989.

Sanday, Peggy Reeves. Female Power and Male Dominance, New York: Cambridge University Press, 1981. Chapter 8.

Bartky, Sandra Lee, "Foucault, Femininity and the Modernization of Patriarchal Power," in Feminism and Foucault, Reflections on Resistance, Diamond, Irene & Quinby, Lee (eds.). Boston: Northeastern University Press, 1988.

Jaimes, M. Annette and Halsey, Theresa, "American Indian Women: At the Center of Indigenous Resistance in North America," in The State of Native America, Jaimes (ed.).

9. Domination and Repression of Indigenous and Other Minorities

Kuper, Leo. Genocide and its Political Use in the Twentieth Century. New Haven: Yale University Press, 1981.

van den Berghe, Pierre L., "Introduction," State Violence and Ethnicity, Newot, Colorado: University of Colorado Press, 1990.

Gurr, Ted Robert and Scarritt, James R. "Minorities Rights at Risk: a Global Survey," Human Rights Quarterly, Vol. 11, 1989, pp. 375-405.

Nietschmann, Bernard, "The Third World War," Cultural Survival, (Cambridge, Mass.) Vol. 11, no 3, 1987, pp. 1-16.

4. Low Repressive Hierarchical Forms of Rule: Clientism, Populism, and Corporatism

Lemarchand, Rene, "Political Clientism and Ethnicity in Tropical Africa: Competing Solidarities in Nation-Building," in Friends, Followers and Factions, Schmidt, Steven W., et al. (eds.).

Guasti, Laura, "Peru: Clientism and Internal Control," in Friends, Followers and Factions, op.cit.

Scott, James C. and Kerklviet, "How Traditional Rural Patrons Lose Legitimacy," in Friends, Followers and Factions, op.cit.

Mouzelis, Nicos P. Politics in the Semi-Periphery, Basingstoke: Macmillan, 1986, General Introduction, chapter 2, and 3 from "Conclusion," p. 170, chapter 4 and General Conclusion.

Eley, Geoff, "What Produces Fascism: Preindustrial Traditions or a Crisis of the Capitalist State," in Radical Perspectives on the Rise of Fascism in Germany, 1919-1945, Michael N. Dobkowski and Isidor Willimann (eds).

5. Repression as a Form of Rule

Mericle, Kenneth S., "Corporatist Control of the Working Class: Authoritarian Brazil since 1964," in Authoritarianism and Latin America, Malloy, James M. (ed.).

Remmling, Gunter W., "Destruction of the Workers' Mass Movements in Nazi Germany," in Radical Perspectives on the Rise of Fascism in Germany, 1919-1945, op.cit.

Americas Watch, Chile since the Coup: Ten Years of Repression, New York, 1983.

Garreton, Manuel Antonio. The Chilean Political Process, chapters 3, 6, and 7.

Fainsod, Merle, "Terror as a System of Power," How Russia is Ruled. Schatzberg,

Michael, G. The Dialectics of Oppression on Zaire, chapters 3 & 4.

6. Psychological and Ideological Elements

Rokeach, Milton. The Open and Closed Mind, New York: Basic Books, 1960, chapters 1-3.

Fromm, Erich. The Anatomy of Human Destructiveness, New York: Holt, Rinehart and Winston, 1973, chapter 11.

Political Repression

Course developed by Prof. John McCamant, Graduate School of International Relations, University of Denver, Denver, CO, USA.
Spring 1992

Objectives:

The purpose of this seminar is to search for a conceptualization of society and politics which will lead to an understanding of why, how and for what purposes political repression takes place. Since political repression is part of the larger category of domination, the seminar will also seek to understand how dominations works.

The readings will attempt to probe some general ideas that might help us understand political repression, but the study of specific cases can help as much as looking at (inadequate) theory. Thus, every participant in the seminar will work on one or two cases as well as read and discuss the general literature. He or she will write a paper reflecting on the readings and on the case together as a final project.

Texts:

Robert Dahl. Democracy and its Critics, New Haven: Yale University Press, 1989.

Sue Curry Jansen. Censorship: the Knot that Binds Power and Knowledge.

Course Outline

1. Introduction

McCamant, John, "Governance Without Blood: Social Sciences Antiseptic View of Rule or the Neglect of Political Repression," in The State as Terrorist, (eds). Stohl, Michael and Lopez, George. Westport, Connecticut: Greenwood Press, 1984).

Harff, Barbara, and Gurr, Ted R., "Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases since 1945," International Studies Quarterly, 1988.

2. Social Movements and Democracy

Begin to read Dahl.

3. Democracy

Complete Dahl.

Topic 11 & 12: Case Study: What Rights are Denied by Inappropriate Health Care Priorities

Issue: Neonatal tetanus vs. neonatal intensive care.

Readings

Lancet (editorial), "Prevention of Neonatal Tetanus," Lancet, June 4, 1983, pp. 1253-4.

Pomerance, J.J. et al. "Cost of Living for Infants Weighing 1,000 Grams or Less at Birth," Paediatrics, Vol. 61, June 6, 1978, Abstract, 908.

Smucker, C.M., et al., "Prevention of Neonatal Tetanus in India: A Prospective Cost-effectiveness Analysis," Journal of Tropical Paediatrics, Vol. 30, 1984, pp. 227-36.

Woodruff, S.E. et al. "Neonatal Tetanus: Mode of Infection Prevalence, and Prevention in Southern Sudan," Lancet, February 18, 1984, pp. 378-9.

Benenson, A.S. ed., "Tetanus," Control of Communicable Diseases in Man, 1980, pp. 348-52.

United Nation's Declaration on the Rights of the Child, 1959.

International Covenant on Economic, Social and Cultural Rights, 1976.

Draft Convention on the Rights of the Child, 1984.

Laws applicable to immunization.

Topic 13: Review and Analysis of Methodology Developed to Apply the Human Right to Health Care for the Improvement of MCH/FP Services

- A. Its Strengths.
- B. Its Weaknesses.
- C. Where Next?

Readings

Parks, W.H. "Pictel's Commentaries," Studies and Essays on International Humanitarian law and Red Cross Principles, Swinarski, (ed.), Kluver Publishers, 1984, pp. 495-97.

Paton v Trustees of British Pregnancy Advisory Service, 1978, 2 All E. R. 987 England.

Planned Parenthood of Missouri v Danforth, 1976, 428 U.S. 52, 96 S. et. 2831, 49 L. Ed. 2d 788.

Topics 9 & 10: Case Study; What Rights are Denied by Lack of Health Care Services

Issue: The lack of rural maternity services

Readings

Fathalla, M.F. "Maternal Health, Syria," World Health Organization, Assignment Report FM/M CH/171 March 1983, pp. 1-13, 19-21, tables.

Hartfield, V.J. "Maternal Mortality in Nigeria Compared with Earlier International Experience," International Journal of Gynaecology and Obstetrics, Vol. 18, 1980, pp. 70-5.

Fried, C. "Equality and Rights in Medical Care," Hastings Center Report, Vol. 6, 1976, pp. 29-34.

Mechanic, D. "Rationing Health Care: Public Policy and Medical Market Place," Hastings Center Report, Vol. 6, 1976, pp. 34.

The Convention Against All Forms of Discrimination Against Women, 1981.

Cook, R.J. and B.M. Dickens, "Nurses in Fertility Regulation: Legal Confirmation of an Expanding Role," IPPF Medical Bulletin, Vol. 18, no. 6, 1984, pp. 3-4.

Cook, R.J. et al. "Women's Equality in the World's Constitutions," People, 1985, explanatory text, chart.

Owen, M. "The Traditional Birth Attendant and the Law," The World Health Forum, Vol. 4, 1983, pp. 291-98.

Suggested Readings

Leslie, C. "Policy Options in Regulating the Practice of Traditional Medicine," Traditional Medicine and Health Care Coverage, World Health Organization, 1983, pp. 314-18.

Stepan, J. "Patterns of Legislation Concerning Traditional Medicine," Traditional Medicine and Health Care Coverage, World Health Organization, 1983, pp. 290-314.

Owen, M. "Law and Policies on Traditional Birth Attendants," International Digest of Health Legislation, Vol. 34, 1983, pp. 441-75.

Readings

Cook, R.J. "The Legal Promotion of the Human Rights to Family Planning," The Human Right to Family Planning, London: IPPF, 1984, pp. 36-49.

Weissbrodt, D. "Strategies for Selecting and Pursuing International Human Rights Matters," in Guide, pp. 20-45.

Kiss, A.C. "Permissible Limitations on Rights," in International Bill of Rights: The Covenant on Civil and Political Rights, L. Henkin (ed.), New York: Columbia University Press, 1981, pp. 290-310.

Suggested Readings

Khushalani, Y. "Human Rights in Asia and Africa," Human Rights Law Journal, Vol. 4, no. 4, 1983, pp. 403-42.

Topics 7 & 8: Case Study: What Rights are Denied by Laws Regulating Particular Health Services

Issue: Spousal consent requirements for family planning services.

Readings

Alfred, K.E. Letter on Changes in Ethiopian Spousal Consent Requirements, January 10, 1985, pp. 1-2.

Maine, D. Family Planning: Its Impact on the Health of Women and Children, CPFH, 1981, pp. 5-7, 25-37.

Maine, D. "Maternal Mortality in the Third World," People, 1985, pp. 1-7, tables.

The European Convention on Human Rights, 1954.

Paton v United Kingdom, 1980, 3 EHRR (European Commission on Human Rights), pp. 408-417.

Suggested Readings

Maine, D. et al. "Effects of Fertility Change on Maternal and Child Survival: Prospects for Subsaharan Africa," Draft of Paper prepared for the World Bank, November 1984, Appendix 1-4.

Ramcharan, B.G., "Equality and Nondiscrimination," in International Bill of Rights ... Henkin (ed.), op.cit., pp. 246-70.

Volvio, F. "Legal Personality, Privacy and the Family," in International Bill of Rights ... Henkin (ed.), op.cit., pp. 185-200.

Kuhn, T.S. "The Structure of Scientific Revolutions," excerpts from, reprinted in Experimentation with Human Beings, Katz (ed.). New York: Russell Sage Foundation, 1972, pp. 127-30.

Topic 5: Setting Standards for the Human Rights to Health Care

- A. The Importance and Implications of Standards
 - i. National, e.g., Development Plans
 - ii. Regional, e.g., Health Development of the African Region
 - iii. International, e.g., WHO Work Plan
 - iv. Minimum standards, e.g., Infant Feeding Formula Code
 - v. Optimal standards, e.g., Health for All by the year 2000
- B. Types of Standards for the Human Right to Health Care
 - i. Health status standards, e.g., maternal mortality
 - ii. Service standards, e.g., service coverage
 - iii. Allocations of resources, e.g., percentage of national budget for health
 - iv. Cost - effectiveness
- C. Considerations for Standard Setting
 - i. Existing standards
 - ii. Data availability
 - a. likelihood of reporting
 - b. ease of diagnoses
 - iii. Efficacy of preventative and curative measures
 - iv. Feasibility: infrastructure, funds, etc.

Readings

WHO Seventh General Programme of Work covering the Period 1984-89, World Health Organization, 1982, pp. 3-9, 83-85.

Sivard, R.L. World Military and Social Expenditures: An Annual Report on World Priorities, 1983.

Cook, R.J., Book Review of Annual Review of Population Law 1981, by Mason P. and Stepan, J. (eds.), in International Digest of Health Legislation, Vol. 35, no. 2, 1983, pp. 482-84.

Suggested Readings

Maine, D., Wray, J., Wallace, M. & Belsey, M. "Financial Resources for MCH/FP Services," NCIH, 1984, pp. 1-15.

Topic 6: Formulating and Arguing Your Case on the Human Rights to Health Care as it Applies to MCH/FP

- A. Fact-Finding
- B. Documentation of Increased Risks to Health
- C. How to Cope with Poor and/or Scarce Data
- D. Documenting the Benefits of Desired Remedies
- E. Tailoring Your Arguments to the Forum

- iv. How do you prove the rights are violated?
- v. What are the most desirable remedies?
- vi. What are the available forums?

Readings

International Covenant on Economic, Social and Cultural Rights, 1976.

Trubek, D.M. "Economic, Social and Cultural Rights in the Third World: Human Rights Law and Human Needs Programs," in Meron, Vol. 1, pp. 205-31, 242-55.

WHO Constitution, 1946, Preamble.

Roscam Abbing, H.S.C. "Right to Health Care," International Organizations in Europe and the Rights to Health Care. Amsterdam: Kluwer-Deventer, 1979, pp. 64-77.

Hannum, H. "Checklist to Help Select the Most Appropriate Forum," in Guide, pp. 288-90.

Hannum, H. "Model Communication," Guide, pp. 292-94.

Suggested Readings

Alston, P. "International Law and the Human Right to Food," The Right to Food, Alston P. & Tomasevski, K. (eds.), Massachusetts: Martinus Nijhoff, 1984, pp. 9-68.

Topics 3 & 4: Maternal and Child Health in Developing Countries

- A. Patterns of Infant Mortality
- B. Patterns of Maternal Morality
- C. What Can be Done?

Readings

Backett, E.M. et al., The Risk Approach in Health Care, World Health Organization, 1984, pp. 1-23.

Handayani, T.H. "Child Mortality in a Rural Javanese Village: A Prospective Study," International Journal of Epidemiology, 1983, pp. 88-92.

Gopalan, C. "Maternal Health, Fertility Control and Child Nutrition," Bulletin of the Nutrition Foundation of India, Vol. 6, no. 1, 1985, pp. 1-4.

Fortney, J.A. et al., "Causes of Death to Women of Reproductive Age in Egypt," paper presented at the annual meeting of the Population Association of America, 1983, pp. 1-18, tables.

The Human Rights to Health Care

Course developed by Profs. Rebecca Cook and Deborah Maine and taught at the School of Public Health, Columbia University, New York, NY (Spring 1985)

Objectives: The human rights to health care is found in many international human right conventions, national constitutions and laws. This course was designed to teach how this right can be used to argue for improvement of services and service coverage. The course centres on the human right to health care as applied to maternal and child health and family planning (MCH/FP) in developing countries today.

Topic 1: Human Rights Applicable to Health and Health Care

- A. The Principle of Human Dignity
- B. Civil and political rights
 - i. Right to life and liberty
 - ii. Right to nondiscrimination
 - iii. Right to privacy or integrity
 - iv. Right to found a family

Readings

Bilder, R.B. "An Overview of International Human Rights Law," Guide to International Human Rights Practice, Hannum, H., (ed.), Philadelphia: University of Pennsylvania Press, 1984, (hereinafter cited as Guide), pp. 3-19.

Shue, Henry, Basic Rights: Subsistence, Affluence and U.S. Foreign Policy. Princeton, NJ: Princeton University Press, 1980, pp. 13-64.

Universal Declaration of Human Rights, 1948.

Suggested Readings

Lillich, R.B. "Civil Rights," Human Rights in International Law, (Vol. 1). Meron, T. (ed.). Oxford: Clarendon Press, 1984 (hereinafter cited as Meron, Vol. 1), pp. 115-56.

Topic 2: Human Rights Applicable to Health and Health Care

- A. Economic, Social and Cultural Rights
 - i. Right to health care
 - ii. Right to social well being
 - iii. Right to food
 - iv. Right to education
- B. Case Studies for Class and Paper Presentations
 - i. What rights are involved (in each case study)?
 - ii. What are their standards?
 - iii. How are these rights violated?

Part VI.

1. Medical Evaluation of Prisons
2. The Psychiatrist in the Investigation and Treatment of Trauma
3. Use of Epidemiology in Fact-Finding Missions
4. Monitoring Violations of Medical Neutrality during Conflict

Part V.

1. The Laws of War and Human Rights
2. Human Rights and AIDS

Part VI. Workshops

1. Medical Evaluation of Prison Conditions
2. Use of Psychiatric Skills in Documenting Violations
3. Epidemiology and Fact-Finding: Case Study Exercises
4. Methodology for Monitoring Medical Neutrality
5. Documenting the Medical Consequences of Mine Warfare

This course was first offered over two days, April 10-11, 1992, and a manual -- summarizing the presentations -- is available.

**Human Rights and Medicine:
The Uses of Medical Skills in Documenting Abuses
and Treating the Victims**

Course developed and sponsored by the Department of Social Medicine, Harvard Medical School, and Physicians for Human Rights, Boston (1992)

Objectives: For this course, we have gathered experienced faculty with expertise in the disciplines important to medical fact-finding investigations. The goals of the course are:

- (1) to teach specific skills with regard to evaluation and treatment of torture victims;
- (2) to demonstrate how epidemiologic methods and clinical observations can be used appropriately for the investigation of human rights abuse;
- (3) to convey the operational principles and practices -- the "mission craft" -- of human rights investigations;
- (4) to increase awareness of the resources and experts who are available for consultation;
- (5) to encourage and enable clinicians and medical educators to include human rights in rounds and course offerings;
- (6) to establish international human rights as a medical issue;
- (7) to expand the participation of physicians in the protection of human rights.

Course Outline

Part I.

1. An overview of international human rights: The problem and what can be done about it.
2. Forensic Human Rights Investigations.
3. How to Assist Torture Victims.
4. Children and Human Rights: The Pediatrician's Role
5. "The Physician as Double Agent"
6. The Basis of Human Rights in Law

Part II. Workshops

1. Forensic Science: Autopsies, Exhumations and Human Rights
2. Treating Torture Victims and Assisting Them in Applying for Asylum
3. Fact-Finding and Advocacy for Children

Part III.

1. Medical Participation in Human Rights Violations
2. Dealing with Medical Colleagues who Collaborated with the Stasi Secret Police in East Germany
3. The Casualties of Conflict: Fact-Finding and the Importance of Accurate Data

International Instruments

- United Nations: Convention on the Rights of the Child
- United Nations: World Declaration on the Survival, Protection and Development of Children
- United Nations: Plan of Action for Implementing the World Declaration on Survival, Protection and Development of Children (excerpts)

Session 14: Human Rights Organizations and Activities: How Does One Begin?

To provide some specific examples of the work of the existing human rights organizations with the aim of assisting students in getting oriented how to obtain the information they may need, and how to develop some form of collaboration with the vast human rights network if they so wish.

Informative Materials

National institutions for the protection and promotion of human rights. Updated Report of the Secretary-General, UN Doc. E/CN.4/1989/47 of 16 December 1988 (excerpts).

Wiseberg, L.S., "Suggestion for Building a Core Collection of Human Rights Documentation," in A Guide to Establishing Human Rights Documentation Centre. Report of a UNESCO-UNU International Training Seminar on the Handling of Documentation & Information on Human Rights, 22-24 November 1988, United Nations University, Tokyo. Ottawa, Ontario, Canada: Human Rights Internet. 1988, pp. 52-78.

International Instruments

- World Health Organization: Blood and blood products, resolution WHA28.72

Session 13: Human Rights in Public health decision-making: Right to Health, Rights of the Child

To discuss how human rights could influence decision-making in public health by analyzing the human right to health in general, and specifically the implications of the Convention on the Rights of the Child in public health.

Readings

Cook, R.J. "Human Rights and Infant Survival: A Case for Priorities," Columbia Human Rights Law Review, Vol. 18, No. 1, Fall-Winter, 1986-87, pp. 1-41.

The World Bank, "Causes of Poor Health," in Health, Sector Policy Paper, Washington D.C., February 1980, pp. 20-8.

Committee on Economic, Social and Cultural Rights, "The Nature of States Parties Obligations," General Comment No. 3 (1990), UN Doc. E/C.12/1990/CPR.5/Add.4, pp. 1-4.

Implementation of the International Covenant on Economic, Social and Cultural Rights: Reports by States parties and their consideration by the Committee (Article 10, protection of the family, the mother and the child, and Article 12, the right to health).

Zaire: Initial report concerning rights covered by Articles 10 and 12, UN Doc. E/1986/3/Add.7 of 26 October 1987, pp. 2-6, 8-9; and "Consideration of the report of Zaire", Committee on Economic, Social and Cultural Rights. Report on the Second Session, UN Doc. E/C.12/1988/4, paras. 275-85, 292-96, pp. 48-9, 51.

Mexico: Initial report concerning rights covered by Article 12, UN Doc. E/1986/Add.13 of 9 December 1988, pp. 3-4, 51-57; and, "Consideration of the report of Mexico", Committee on Economic, Social and Cultural Rights, Report on the Fourth Session, UN Doc. E/C.12/1990/3, paras. 107-112, pp. 28-9.

Children's Rights in American: The UN Convention on the Rights of the Child Compared with the United States Law, C. Price Cohen and H.A. Davidson (eds.). American Bar Association Center on Children and the Law and Defence for Children International/USA, 1990, pp. 289-301.

Cases concerning education:

Erkki Hartikainen v. Finland and Leo Hertzberg v. Finland, in de Zayas, A. and Moller, J., "Optional Protocol Cases Concerning the Nordic Countries Before the Human Rights Committee", Nordic Journal of International Law, Vol. 55, No. 4, 1986, pp. 388-91.

Decision of the Human Rights Committee in the case A. and S.N. v. Norway (Communication No. 224/1987), UN Doc. CCPR/C/33/D/22 /1987 pp. 2-6.

Turk, D. and Joinet, L. The Right to Freedom of Opinion and Expression. Current Problems of its Realization and Measures Necessary for its Strengthening and Promotion. UN Doc. E/CN.4/Sub.2/1990/11, July 18, 1990, paras. 11-50, pp. 3010.

International Instruments

- UNESCO: Convention against Discrimination in Education (excerpts)
- United Nations: Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
- European Parliament: Freedom of Education in the European Community

Session 11: Access to Information in Environmental Health: Case Study of Chernobyl

To enable students to use the human rights norm on access to information to reinforce public health policies and measures against environmental hazard, particularly in nuclear safety.

Readings

"International co-operation to address and mitigate the consequences of the accident at the Chernobyl nuclear power plant", Resolution 45/190 of the United Nations General Assembly of 21 December 1990, pp. 209-210.

"Information on the economic and social consequences of the accident at the Chernobyl nuclear power plant", submitted by the delegations of the USSR, the Byelorussian SSR and the Ukrainian SSR, Annex to UN Doc A/45/342-E/1990/102 of 9 July 1990, pp. 3-19.

Stein, R.E. "Notes for Discussion: Legal Aspects", World Health Organization Meeting on Criteria for International Testing of Candidate HIV vaccines," Geneva, 27 February - 2 March 1989, pp. 1-5.

"Human Experimentation," in Health Aspects of Human Rights (with special reference to developments in biology and medicine). Geneva: World Health Organization, 1976, pp. 24-32.

Belsey, A. "Patients, Doctors and Experimentation: Doubts about the Declaration of Helsinki," Journal of Medical Ethics, Vol. 4, 1978, pp. 182-185.

Scicluna, H. "Clinical Trials and the Council of Europe," in Medical Experimentation and the Protection of Human Rights, N. Howard-Jones and Z. Bankowski (eds.). Geneva: CIOMS, 1979, pp. 31-9.

International Instruments

- World Medical Association: Declaration of Helsinki
- CIOMS: Proposed International Guidelines for Biomedical Research involving Human Subjects
- Council of Europe: Recommendation No. R (90) 3 concerning medical research on human beings

Session 10: Freedom to Impart Information for Health Protection: Educational Curricula

To enable students to use human rights argumentation to reinforce the public health necessity of AIDS prevention education.

Readings

Mace, D.R. et al. The Teaching of Human Sexuality in Schools for Health Professionals. Geneva: World Health Organization, 1974, pp. 9-13.

Editorial: "AIDS and Sex," The Lancet, January 2/9, 1988, p. 31.

Department of Community Services and Health, Australia, Consultation Paper No. 2, Report of the Working Panel on Discrimination and Other Legal Issues - HIV/AIDS. Canberra, May 1989, pp. 7-11.

Guggenheim, M. "The Child's Access to Diverse Intellectual, Artistic and Recreational Resources," (articles 13, 17, 28, 31 and 31 of the Convention on the Rights of the Child), in

Session 8: Human Rights of Refugees with Impaired Health

The case study aims to enable student to examine the interplay between human rights and public health criteria in the admission on disabled refugees.

Readings

Hyndman, P., "Refugees: Victims of Persecution and discrimination," IMADR Yearbook, 1989, Tokyo, June 1990, pp. 34-46.

Toole, M.J. & Waldman, R.J. "Prevention of Excess Mortality in Refugee and Displaced populations in Developing Countries," Journal of American Medical Association, Vol. 263, No. 24, June 27, 1990, pp. 3296-3302.

Utheim, O., "Special Documentation on Disabled and Medically-at-risk Refugees/Migrants," Migration Medicine Seminar, Geneva, February 6-9, 1990, pp. 1-5.

Employment and Immigration Canada. Medical Inadmissibility Review.

Discussion Paper, Ottawa, January 1991, pp. 7-118, 47-9.

Supplementary Reading

Refugee Policy Group. Ensuring the Health of Refugees: Taking a Broader Vision. Washington, D.C., May 1990, pp. 1-29.

International Instruments

- United Nations: 1951 Convention Relation to the Status of Refugees (excerpts)
- United Nations: 1966 Protocol Relating to the Status of Refugees (excerpts)
- The Georgetown Declaration on Health Care for Displaced Persons and Refugees

Session 9: Protection of Human Rights in Research on Human Beings: Vaccine Testing

To familiarize students with the human rights prohibition of involuntary and harmful experimentation, and to enable them to complement principles of research ethics with human rights norms in discussing research on human beings.

Readings

Statement from World Health Organization Consultation on Criteria for International Testing of Candidate HIV Vaccines: Ethical, social and legal issues, Geneva, 27 February - 2 March 1989, GPA/INF/89.9, pp. 1-8.

Session 7: Case Study of Gender Discrimination in Health

To discuss the nature, concepts and application of the core human rights principle, non-discrimination, by discussing gender discrimination in health and ways and means of its eradication.

Readings

"Son Preference," in Report of the Working Group on Traditional Practices Affecting the Health of Women and Children, UN Doc. E/CN.4/1986/42, 4 February 1986, paras. 139-71, pp. 24-30.

"Hands of the MTP Act!" (The Maharashtra Regulation of Use of Prenatal Diagnostic Techniques Act), The Lawyers Collective, Bombay, October 1988, pp. 22-3.

Gruenbaum, E. "The Islamic Movement, Development and Health Education: Recent Changes in the Health of Rural Women in Central Sudan," Social Sciences and Medicine, Vol. 33, no. 6, 1991, pp. 637-45.

"Women and Health: More than Maternal Mortality," The Woman's Watch, Vol. 2, no. 3, December 1988, pp. 1-3.

Supplementary Reading

Levine, C. "Depo-provera and Contraceptive Risk: A Case Study of Values in Conflict," Hastings Center Report, Vol. 9, no. 4, August 1979, pp. 8-11.

Byrnes, A.C., "The 'Other' Human Rights Treaty Body: The Work of the Committee on the Elimination of Discrimination Against Women", Yale Journal of International Law, Vol. 14, No. 1, pp. 1-67.

International Instruments

- Human Rights Committee. General Comment No. 18 (37) - Non-discrimination
- Convention on the Elimination of All Forms of Discrimination Against Women (substantive provisions only)
- Committee on the Elimination of Discrimination Against Women (CEDAW): General recommendation No. 14 (Female circumcision)
- Committee on the Elimination of Discrimination Against Women (CEDAW): General recommendation No. 15 (Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS))
- World Health Organization (WHO): Women, health and development, resolution WHA38.27
- World Health Organization (WHO): Women's health, resolution WHA42.42

"Prevention: "Inoculation and Vaccination," in Biology, Medicine and the Bill of Rights. Special Report, Office of Technology Assessment, Congress of the United States, OTA-CIT-371, Washington, DC. September 1988, pp. 65-66.

de Moerloose, J. "Compulsory or Voluntary Vaccination," in The Role of Immunization in Communicable Disease Control, Public Health Papers No. 8, Geneva: World Health Organization, 1961, pp. 85-100.

Senault, R. et al. "Legal Aspects [of vaccination]," in Legislation on Vaccination in the Member States of the European Economic Community. Geneva: World Health Organization, 1965, pp. 15-23.

WHO/EPI: "Missed opportunities for immunization. Ethiopia", Weekly Epidemiological Record, No. 22, June 1, 1990, pp. 167-70.

International Instruments

Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights

Session 6: Protection of Human Rights of Mentally Ill People

To discuss the application of human rights protection to a category particularly susceptible to abuses, the mentally ill.

Readings

Heginbotham, C. The Rights of Mentally Ill People. London: Minority Rights Group, pp. 1-4.

Daes, I.E., Special Rapporteur, Principles, Guidelines and Guarantees for the Protection of Persons Detained on Grounds of Mental Ill-health or Suffering from Mental Disorder, UN Doc E/CN.4/Sub.2/1983/Rev.1, paras. 153-223, pp. 22-27.

Curran, W.J. and Harding, T.W. "Human Rights in Mental Health," in The Law and Mental Health: Harmonizing Objectives. Geneva: World Health Organization, 1978, pp. 87-101.

International Instruments

- Declaration on the Rights of Mentally Retarded Persons
- United Nations Commission on Human Rights: Principles for the protection of persons with mental illness and for the improvement of mental health care

Involvement of Medical personnel in Abuse Against Detainees and Prisoners. (revised and updated). New York, NY: Amnesty International, November 1990.

International Instruments

International prohibition of torture:

- United Nations: Standard Minimum Rules for the Treatment of Prisoners
- United Nations: Declaration of the Protection of All Persons from being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- United Nations: Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- United Nations: Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment
- United Nations: Basic Principles for the Treatment of Prisoners
- United Nations Commission on Human Rights: Torture and other cruel, inhuman or degrading treatment or punishment (resolution 1991/38)

Ethical guidelines against torture for the medical profession:

- World Medical Association: Declaration of Tokyo.
- United Nations: Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment

Session 5: Limiting Human Rights on Public Health Grounds: Case Study of Immunization

To enable students to recognize human rights issues in a typical public health measure, and to familiarize them with the application of human rights by demonstrating how advantages of immunization outweigh human rights argumentation against compulsory immunization.

Readings

"Public health [as grounds for limiting human rights]," submission of the World Health Organization, in The Individual's Duties to the Community and the Limitations on Human Rights and Freedoms under Article 29 of the Universal Declaration of Human Rights, UN Publication, Sales No. E.82.XTV.1, 1983, p. 100, 126-27.

Immunization Cases: Fay Godfrey v. United Kingdom [No. 8542/79], Decision of the European Commission on Human Rights of 4 February 1982; Wain v. United Kingdom [No. 10787/84], Decision of the European Commission on Human Rights of 12 December 1985.

Nowak, M. "Procedures of the Commission on Human Rights," in symposium on "The Promotion and Protection of Human Rights by the United Nations", The Netherlands Quarterly of Human Rights, Vol. 6, no. 2, 1988, pp. 13-18.

International Instruments

United Nations Commission on Human Rights: "Responsibility for the Violations of Human Rights and Fundamental Freedoms"

Economic and Social Council: "Resolution 728 F (XXVIII) on Communications Concerning Human Rights"

Economic and Social Council: "Resolution 1235 (XLII) on the Question of the Violation of Human Rights and Fundamental Freedoms"

Economic and Social Council: "Resolution 1503 (XLVIII) on the Procedure for Dealing with Communications Relating to Violations of Human Rights and Fundamental Freedoms"

Sub-Commission on Prevention on Discrimination and Protection of Minorities: "Resolution 1 (XXIV) [adopting procedures for dealing with admissibility of communications alleging human rights violations]

Session 4: Case Study of the Involvement of Medical Personnel in Torture in Uruguay

To show how the international human rights system functions in practice by discussing the participation of health professionals in torture in Uruguay as an example from recent history.

Readings

Sick Prisoners in Uruguay: Medical Attention in the Military Prisons. London: Amnesty International, October 1984, pp. 1-9.

Bloche, M.G. "The Allegations Against Uruguay's Military Physicians" and "The Medical Community Responds," Uruguay's Military Physicians: Cogs in a System of State Terror. Washington, DC: American Association for the Advancement of Science, 1987, pp. 9-40.

"Human Rights Committee: Views in the Case of Antonio Viana Acosta v. Uruguay, [Communication no. 110/1981], 1984 Report of the Human Rights Committee, UN doc. A/30/40, pp. 169-74.

Supplementary Reading

"Doctors Associated with Torture," in Synopsis of material received from NGOs in consultative status with ECOSOC prepared by the Secretariat, UN doc. E/CN.4/Sub.2/1989/22 of 24 July 1989, paras. 21-24.

Supplementary Readings

Keshwaar, S. "Indian Government on the Mat for Human Rights Violations," The Lawyers Collective, Bombay, June 1991, pp. 10-12.

Kothari, R. "Human Rights: A Movement in Search of a Theory," Lokayan Bulletin, New Delhi, India. Vol 5, no. 4/5, 1987, pp. 17-27.

"Humanity Rights as Human Duties," Inquiry, July 1987, pp. 34-9.

"Reaction of the Government of the Islamic Republic of Iran," in Situation of Human Rights in the Islamic Republic of Iran. Note by the Secretary-General of the UN, Doc. A/42/648 of 12 October 1987, para. 52-76, pp. 19-22.

"Grand Council of the Crees: An Indigenous Viewpoint on Essential Issues in Standard-setting," UN Doc. E/CN.4/Sub.2/1988/NGO/20 of 22 August 1988, pp. 1-7.

International Instruments

The International Bill of Human Rights:

- Universal Declaration of Human Rights
- International Covenant on Economic, Social and Cultural Rights (substantive provisions only)
- International Covenant on Civil and Political Rights (substantive provisions only)

Session 3: The Global Human Rights System: Accountability of Governments

To explain the functioning of the global human rights system by describing its structure, work, accomplishments and obstacles to its effectiveness.

Readings

van Boven, T. "Protection of Human Life," in People Matter: Views on International Human Rights Policy, Amsterdam: Meulenhoff, 1983, pp. 76-84.

Guest, I. "The Dictators Triumph," in Behind the Disappearances: Argentina's Dirty War Against Human Rights and the United Nations. Philadelphia: University of Pennsylvania Press, 1990, pp. 320-332.

Tomasevski, K. "Et tu, UN? The Policy of Identifying Violations," in Human Rights Violations and Development Aid: From Politics Towards Policy. London, UK: Commonwealth Secretariat, 1990, pp. 6-10.

Human Rights for Public Health Practitioners

Course developed by Yugoslav Prof. Katarina Tomasevski and American Prof. Jonathan Mann, Harvard School of Public Health, Harvard University, Cambridge, Massachusetts, USA (Winter 1992)

Objective: The purpose of this course is to make public health professional "literate" in human rights.

Session 1: History of International Human Rights Protection

To explain why and how human rights emerged as an activity of the international community.

Readings

Humphrey J. No Distant Millennium: The International Law of Human Rights, Paris: UNESCO, 1989. Chapter 3. "Historical perspective" & Chapter 4, "The League of Nations and the International Labour Organization", pp. 27-43.

Joyce, J.A. "Slavery", in The New Politics of Human Rights, Macmillan, 1986. pp. 12-20.

Forsythe, D.P. "Human Rights and the International Committee of the Red Cross," Human Rights Quarterly, Vol. 12, 1990, pp. 265-289.

International Instruments

- Covenant of the League of Nations (excerpts)
- Slavery Convention (excerpts)

Session 2: Standard-Setting: Source of Human Rights Norms

To describe the main sources in which human rights and fundamental freedoms are enumerated and universally guaranteed, and to define their contents.

Readings

"Role call of Human Rights Instruments, 1948-82," United Nations Chronicle: Perspective, Vol. XXI, no. 2, February 1984, pp. i-xxii.

Seighart, P. An Introduction to the international Covenants on Human Rights. Human Rights Unit Occasional Paper. Commonwealth Secretariat, London, UK. March 1988, pp. 1-20.

Alston, P. "Effective Implementation of International Instruments on Human Rights, Including Reporting Obligations under International Instruments on Human Rights," UN doc. A/44/668 of 8 November 1989, pp. 11-15.

Human Rights

A course developed by the Programa Interdisciplinario de Investigaciones en Educación (PIIE) of the Instituto de Derechos Humanos (Inter-Disciplinary Program for Research in Education of the Institute of Human Rights), to be taught at the Universidad Bolivariana, Chile, by Professors Pablo Salvat, Patricio Donoso, María Teresa Rodas

Developing an optional course in human rights for the Universidad Bolivariana has been a challenge to all those institutions committed to realizing the goal of teaching human rights at the University. Since this has been a new experience, we have designed the following general modules, recognizing they they will need to be made more concrete as the course unfolds.

Module 1: A "basic formative cycle concerning our focus on human rights," based on a holistic, integral neo-paradigm (to be elaborated). This first module, will have its own rhythm and the following components:

- (a) elaboration of a shared analysis of human rights
- (b) the historical and philosophical basis of human rights
- (c) the legal basis of human rights
- (d) experiences in human rights education
- (e) personal development and human rights
- (f) the political economy and human rights

Module 2: A series of workshops through which the students can study the role and validity of human rights in relation to certain themes in national life, and in relation to their profession and its connection to human rights. These workshops will permit the student to become familiar with certain real experiences in the human rights domain.

Module 3: The focus here is on the links between what the students are learning about human rights, and their own professional work, both now and in the future.

In general terms, the methodology to be used to teach these modules will encourage a learning experience that is qualitative, and based on participation and personal experience.

Human Rights: Educational, Religious and Moral Questions

Course developed by Prof. J. Paul Martin, Center for the Study of Human Rights, Columbia University, New York, NY (1992)

Objectives:

This course was designed to bring critical analysis to some of the premises of international human rights activities, especially to approaches to human rights education in professional training, colleges and high schools. Taking as its reference point the International Bill of Rights, the course will examine selected contemporary social problems in the U.S. and overseas, including particularly the role of education in responding to these problems. The course also examined moral and religious factors, notably with regard to their influence on priorities among rights. Students were expected to develop criteria for evaluating normative considerations in human rights programming, including teaching, through short review essays and the development of a human rights education program adapted to the conditions of a specific context.

Course Outline

1. Human Rights Education: An Overview of the Issues and Actors

Martin, J. Paul, "Human Rights: Education for What?" Human Rights Quarterly. Vol, 8, 1987.
Henkin, Louis, Age of Rights, Columbia University Press, 1989, pp. 1-29.
Encyclopedia Britannica, "Human Rights".

2. Religious and Philosophical Foundations of Rights in the West

Locke, John, Second Treatise, Chapter II, Of the State of Nature.
Vincent, R.J. Human Rights and International Relations, New York: Cambridge University Press, 1986, pp. 7-36.
Henkin, op.cit., pp. 109-26.

3. Socialist and Third World Critiques of Rights

Vincent, op.cit., pp. 61-75.
Shivji, Issa, African Concepts of Human Rights.

4. Human Rights and World Religion: Islam

Rouner, Leroy, Human Rights and the World's Religions, University of Notre Dame Press, pp. 129-61.
Vincent, op.cit.. pp. 37-57.
Cairo Declaration.

5. Values Education and Human Rights in the Classroom

Kolberg, Lawrence & Gilligan, Carol, In a Different Voice, Cambridge, MA: Harvard University Press, 1989, pp. 64-105.

6. The Basic Needs vs. Civil Liberties Debate

Shue, Henry, Basic Rights: Subsistence, Affluence and U.S. Foreign Policy, Princeton, NJ: Princeton University Press, 1980, pp. 13-34.

Vincent, op.cit., pp. 76-108.

Trubek, "Economic, Social and Cultural Rights in the Third World: Human Rights Law and Human Needs Programs," in T. Meron (ed.), Human Rights in International Law: Legal and Policy Issues.

7. Rights, Equality and Universality

Peterson, V. Spike, "Whose Rights: A Critique of the Givens in Human Rights Discourse," Alternatives XV (1990), pp. 303-44.

8. Human Rights and Peace and Development Theories

9. Human Rights and Foreign Policy: Beyond the Headlines

Bedau, Hugo, "Human Rights and Foreign Assistance Programs," in Human Rights and U.S. Foreign Policy, Peter Brown and Douglas Maclean (eds.), pp. 29-44.

Vincent, op.cit. pp. 111-52.

Henkin, op.cit. pp. 65-80.

Shue, op.cit. pp. 155-74.

10. International Human Rights Education

Supplementary/Basic Readings

Walter Laqueur and Barry Rubin, Human Rights Reader, Lincoln: University of Nebraska Press, 1989.

Marx, Karl, On the Jewish Question.

John Stuart Mill, On Liberty.

James Nickel, Making Sense of Human Rights, Berkeley, University of California Press, 1987.

John Rawls, A Theory of Justice, Cambridge, MA: Belknap Press of Harvard University Press, 1971.

R.H. Tawney, Equality, London: Allen and Unwin Ltd., 1964.

Jeremy Waldron, Nonsense on Stilts: Bentham, Burke and Marx on the Rights of Man, New York: Methuen, 1987.

David Wootton, Divine Right and Democracy, The Putney Debates, Harmondsworth, England: Penguin Books, 1986.

Morality and Human Rights

Course offered by Professor Carlos de la Rivera R. at the Faculty of Theology, Catholic University of Chile, Santiago (1992)

Objectives:

To help students: (1) to understand that human rights have a place in moral theological reflection, and that their lack of protection compromises the Christian in a personal way; and (2) to analyze the pronouncements and the teachings of the Church on this theme, and their relationship to other declarations on human rights.

Course Outline

1. Introduction
 - a. The Concept
 - b. Our concern for this issue
2. Taking stock of human rights
 - a. The history of the recognition of human rights
 - the individual's "social liberties"
 - human rights declarations
 - b. The Christian vision of human rights
 - a theological reflection
 - Pontifical doctrine and universal teaching
 - the teachings of the Chilean Bishops
3. Human rights and their ethical significance
 - a. The need for this ethical interpretation
 - b. Conditions which justify the ethical interpretation
 - c. The function of ethical interpretation and the promotion and protection of human rights

An Interdisciplinary Course on Human Rights

Developed at the Campus of San Joaquín, Catholic University of Chile, by Professors Mónica Jiménez, Andrés Domínguez, Francis Valverde, and Mario Bugueño (1992)

I. Introduction

The legal instruments which today proclaim, define and establish the system of human rights are the result of a long search. In some instances, these instruments have been created as a result of the suffering and pain of individuals and peoples subjected to acts of barbarism; at other times, they have been the result of the search for dignity and the improvement of the person, which has in turn encouraged the progress of faith, thinking, science, art and engineering.

It is the peoples and individuals who are the authors of these instruments, while religion, political ideology and culture are merely the meeting places for the exchange of ideas and the sharing of advice.

The development of these instruments will never be a fait accompli, and the new challenges in life confronting society, religion, science, art or engineering, will encourage human beings to improve upon or even to realize human dignity.

The task of the university then, is to provide a place for dialogue, work and academic search which will in turn permit, in as René Cassin suggested, the analysis of the processes of the growth of, or the threat to, human dignity.

An interdisciplinary course in human rights, therefore, is different from a teaching-learning experience. It is a process of reasoning and conscience-building from the perspective of human dignity.

II. Objectives

(1) To create an environment for dialogue between students in scientific or technical programs, about the humanist foundations of their own disciplines, and the problems encountered with respect to the principles, values and universal norms which are built into these disciplines.

(3) To help the student develop a vision of life and of the world that is in harmony with the promotion of human dignity.

III. Content of the Program

1. There will be an introductory section on the motivations behind the course and the methodology to be used. The professors will explain the values inherent in the theory of human rights, as well as its historic development in relation to the

experiences of individuals, peoples and humanity in their search for human dignity and popular sovereignty as foundations for a system of justice and solidarity. Each student will chose a theme to elaborate during the course.

2. Section two will focus on the elaboration of a global perspective concerning the challenges which confront a civilization founded on the concept of liberty. Themes such as -- "what kind of people (humanity) do we want to be?"; "the calling of liberty: human dignity" -- will be proposed by the professors and reinforced by texts for discussion by the students. Four aspects of crisis will be examined: the crisis of identity; the crisis of solidarity; the crisis of values; and the crisis of politics.

3. The final part of the course will focus on the elaboration of a discourse of human rights, and on the search for proposals on how we should proceed. This type of analysis will be incorporated into each student's personal project.

IV. Methodology

The course's aim is to provide an environment for reflection, as well as reasoning and conscience-building. At the end of the course, each student's personal project should reflect his or her position with respect to the central theme.

The course will include presentations by the professor, as well as by guest lecturers, and the class will sometimes be divided into groups.

Students are expected to read the minimum recommended bibliography, and to present a four-page paper.

V. Evaluation

This course requires the active participation of the students, and the quality of that participation -- as well as the student's independent project -- will be a component in the grade.

VI. Basic Bibliography

Maximo Pacheco Gomez. Los Derechos Humanos. Documentos Básicos. Editorial Jurídica de Chile, 1987.

Daniel O'Donnell. Protección Internacional de los Derechos Humanos. Comisión Andina de Juristas, 1988.

Elías Díaz. Estado de Derecho y Sociedad Democrática. Taurus Ediciones, Madrid, 1986.

Naciones Unidas. Actividades de las Naciones Unidas en Materia de Derechos Humanos. Naciones Unidas, Nueva York, 1986.

Human Rights and the Democratic Transition in Latin America: The Case of Central America

Course developed by Prof. Sonia Picado Sotela, Director of the Inter-American Institute of Human Rights (Costa Rica), and offered at the Institute of Latin American and Iberian Studies, Department of Political Science, Columbia University, New York, NY (Fall 1991)

General Objectives:

At the conclusion of the seminar, each student should be able to:

- (a) understand the concept of human rights, its historical development and the institutions this concept has helped create;
- (b) apply human rights concepts to the socio-political structure of Latin America;
- (c) determine the historical and contemporary factors which affect the enforcement or violation of human rights;
- (d) compare and contrast the democratic transition in Latin America by region;
- (e) understand the roots and evolution of the Central American conflict and its impact on the process of democratic transition;
- (f) discuss the principle obstacles to democratic development and its impact on human rights in Latin American with special emphasis on Central America; and
- (g) evaluate and propose strategies for the democratic consolidation of Central America.

Required Texts:

Buergenthal, Thomas. International Human Rights in a Nutshell, New York: West Publishing Co., 1988.
Instituto Interamericano de Derechos Humanos, (IIDH). Agenda para la Consolidación de la Democracia in América Latina, San José: Servicio Editorial IIDH, VARITEC S.A., 1990.

Course Outline

Part I: A Historical Review of Central America in Latin American Context

1. Discovery, conquest and colonization.
2. Independence. The Structures.
3. Constitutional development. The division between norms and reality.
4. Forms of government, dictatorships. Methods of governing.
5. The economic and social structure. Compare: the Southern cone, Brazil, the Andean region and Central America.
6. The development of political actors: the state as a private enterprise, guerrilla and irregular movements.
7. Authoritarianism and the culture of violence: a negative prelude to the enforcement of human rights.

Reading:

Galmes, Lorenzo. Bartolomé de las Casas. Madrid: Biblioteca de Autores Cristianos, pp. 30-36.

- Levene, Ricardo. Introducción al Derecho Indiano. Buenos Aires: Edit. Valerio Avello, Buenos Aires, pp. 173-4.
- Mires, Fernando. "La Rebelión Permanente," Las Revoluciones Sociales en América Latina. Edit. Singlo XXI, pp. 153-7.
- Ots Capdequi, J.M. El Estado Español en las Indias, México: Edit. Fondo de Cultura Económica, pp. 15-43.
- Picado, Sonia. Derechos Humanos y Democracia. Centroamérica en los años ochenta. San José, 1991, pp. 1-12.
- Woodward, Ralph Lee. "Central America: A Nation Divided," Latin American Histories, 2nd ed., New York: Oxford University Press, 1985, pp. 92-119.
- Smith, Peter. The Origins of Crisis, in Confronting Revolutions Security Through Diplomacy in Central America. New York: Morris J. Blachman, pp. 4- 13.

Part II: Human Rights: Concepts and Reality

A. Human Rights as an International Problem

1. Conceptual sketch.
2. Background on the Declarations.
3. The Universal Declaration of Human Rights.
4. The American Declaration of the Rights and Duties of Man. The Organization of American States.
5. The development of the international system of human rights. The Covenants.
6. The development of human rights in the Americas. The creation of the Inter-American Commission on Human Rights.
7. Human Rights and international peace.

Reading:

- Arenal, Celestino. "Paz y Derechos Humanos," Revista IIDH, San José: Servicio Editorial IIDH, enero-junio, 1987, pp. 5-16.
- Bentham, Jeremy, "Anarchical Fallacies," in Human Rights. Belmont: Melden, 1970, pp. 53-59.
- Buergenthal, Thomas. International Human Rights (In a Nutshell), Minnesota: West Publishing Co., 1988, pp. 1-42.
- Buergenthal, Thomas. "Los Derechos Humanos en el Sistema de Protección Regional," Antología Básica, San José: Edit. Servicio Editorial IIDH, 1990, pp. 137-59.
- Henkin, Louis. The International Bill of Rights, I, New York: Columbia University Press, 1981, pp. 29-40.
- IIDH. Revista: Número Especial, Conmemoración del 40 Aniversario de la Declaración Americana de Derechos y Deberes del Hombre, San José: Edit. Servicio Editorial IIDH, 1989.
- Picado, Sonia. "Apuntes Sobre los Fundamentos Filosóficos de los Derechos Humanos," Antología Básica, Edit. Servicio Editorial IIDH, San José, 1990, pp. 11-46.
- Schachter, Oscar. International Law in Theory and Practice, General Course in Public International Law. 1985, pp. 12-30.
- Universal Declaration of Human Rights

B. The Forms of Human Rights Violations

1. The pendulum between democracy and dictatorship in Latin American history. "Caudillismo".
2. Repression as a political weapon. Proscribed ideologies. Reduced opposition. The doctrine of national security.
3. The content of human rights in international doctrine. Its legislative ratification. Civil and political rights. Economic, social and cultural rights. The rights of nations.
4. The violation of civil and political rights: homicide, exile, torture and disappearance. The goals sought by these methods.
5. The role of the military.

Reading:

- Aguilera, Gabriel. El Fusil y el Olivo: La Cuestion Militar en Centroamerica, Falco Capitulo II y V, pp. 51-121.
- Gros Espiell, Hector. "Derechos Humanos y Seguridad del Estado en Centroamerica," en Segundo Seminario Sobre Seguridad del Estado, Derechos Humanitario y Derechos Humanos en Centroamerica, CICR-IIDH, PP. 151-9.
- Gros Espiell, Hector. "La Historia de los Derechos Humanos en America Latina," en Estudios sobre Derechos Humanos, IIDH - CITIVTAS, 1985, pp. 65-86.
- Maira, Luis. "Algunas Notas sobre las Dictaduras Militares de America Latina y las Perspectivas del Movimiento Obrero," en Capitalismo: Violencia y Anti-vida, 1978, pp. 53-67.
- Montealegre, Hernan. La Seguridad del Estado y los Derechos Humanos, Santiago: Academia de Humanismo Cristiano, 1979, pp. 3-13.
- Rodriguez, José Luis. Derechos Humanos y Fuera de Seguridad, Conferencia Impartida en el VIII Curso Interdisciplinario en Derechos Humanos, San José, Setiembre de 1990.
- Thompson, José. "Contenido de los Derechos Humanos: Tipologia," en Cuadernos de Estudio, Serie: Educación y Derechos Humanos, San José: Servicio Editorial IIDH, 1986, pp. 17-23.
- Villegas, Abelardo. Reformismo y Revolución en el Pensamiento Latinoamericano, Siglo XXI, Sexta Edición, pp. 9-36.

Part III: The Response of Civil Society

1. The non-governmental movement.
2. Activities of the non-governmental movement. The police. The legal system. The military.
3. The non-governmental movement in the international system. Amnesty International. Other NGOs. Local NGOs and their international reports.
4. The development of the non-governmental movement in Central America. A country analysis. Successes and failures.
5. The role of non-governmental organizations in political change.
6. The role of the church.
7. The strengths and weaknesses of the non-governmental organization movement.

Reading:

- Fruhling, Hugo. Los Movimientos de Derechos Humanos en América Latina: Identidad, Diversidad y Estrategia de Educación para la Paz y los Derechos Humanos, Caracas: Consejo de Educación de Adultos de América Latina (CEAAL), 1984, pp. 32-50.
- García-Sayan, Diego. "Los Organismos No Gubernamentales," Antología Básica, pp. 291-309.
- Mendez, Juan. "El Rol de las Organizaciones No Gubernamentales," Manual de Cursos, Recopilación de Conferencias, San José: Servicio Editorial IIDH, pp. 3-10.
- Picken, Margo. "The Role of the NGO in the Implementation of Human Rights within the Framework of the UN." Paper delivered to an International Colloquium on Human Rights at the University of Montreal, Canada, February 28, 1985.
- Zalaquett, José. "La Realidad de los Derechos Humanos en América Latina," Antología Básica, pp. 313-34.
- Zalaquett, José. The Human Rights Issue and the Human Rights Movement, Geneva: World Council of Churches, 1981.
- Weissbrodt, David. "Strategies for Selecting and Pursuing International Human Rights Matters," Guide to International Human Rights Practice, Hurst Hannum, ed., Philadelphia: University of Pennsylvania Press, 1984, pp. 20.

Part VI: The Formal Human Rights Protection Systems

(a) The International Response: The Inter-American Commission on Human Rights

1. The judicial system. Inability to channel and resolve human rights violations.
2. The Organization of American States. The Inter-American Commission: its first years. The dual functions of the Commission.
3. General reports. Their impact.
4. The work of the Commission in individual cases.
5. Thirty-one years of the Commission's work: a retrospective.

Reading:

- Aguilar, Andrés. "Organización y Funcionamiento de la Comisión Interamericana de Derechos Humanos," OEA, Anuario Jurídico Interamericano, 1984, pp. 165-90.
- Baena Soares, Joao Clemente. "La OEA, Permanencia y Modernización," OEA, la suerte de una institución regional, pp. 101-26.
- Buergenthal, Thomas. International Human Rights, pp. 123-55.
- Clagett, Helen. The Administration of Justice in Latin America, New York: Oceana Publications, pp. 11-30.
- Jimenez, Luis. "Los Derechos Económicos en América Latina: Otros Enfoques, El Papel de la Comisión Interamericana de Derechos Humanos," Derechos Económicos y Desarrollo en América Latina, San José: Servicio Editorial IIDH, 1991, pp. 107-12.
- OEA, Documentos Básicos en Materia de Derechos Humanos en el Sistema Interamericano, Secretaría General, marzo 1988, pp. 1-14.

Prado, Juan José. América Latina y Derechos Humanos, APDH, pp. 15-22.

(b) The International Response: The Inter-American Court of Human Rights

1. The Inter-American Court of Human Rights. Historical structure.
2. The advisory practice of the Court.
3. The contentious practice of the Court.
4. The repercussions of Court decisions.
5. An analysis of the Court within the Inter-American system.

Reading:

Acafade. Análisis de la Sentencia Fairen - Solis, San José, 1989, pp. 1-16.

Buergenthal, T. International Human Rights, pp. 155-70.

Buergenthal, T. The Advisory Practice of the Inter-American Human Rights Court, La Corte Interamericana de Derechos Humanos, San José: Servicio Editorial IIDH, 1986, pp. 23-50.

Cisneros, Maximo. Algunos Aspectos de la Jurisdicción Consultiva de la Corte Interamericana de Derechos Humanos, La Corte Interamericana de Derechos Humanos, San José: Servicio Editorial IIDH, 1986, pp. 53-65.

Corte Interamericana de Derechos Humanos, Sentencias en los Casos Godínez Cruz, 20 de enero de 1989; Velázquez Rodríguez, 29 de julio de 1988 y Fairen Garbí y Solís Corrales, 15 de marzo de 1989.

Nikken, Pedro. "Los Derechos Humanos en el Sistema Regional Americano," Antología Básica, pp. 105-10.

Ventura, Manuel y Daniel Zovatto, La Función Consultiva de la Corte Interamericana de Derechos Humanos, San José: IIDH - CIVITAS, pp. 116-203.

Part V: The Democratic Transition and the Impact of Human Rights

(a) Latin America

1. Causes of the weakness of the dictatorial-military model. A regional analysis.
2. The beginning of the transition: political parties and the pre-electoral era.
3. From non-governmental systems to limited democracy. The civil government in the center. The survival of military structures.
4. Irregular movements and guerilla forces.
5. Gains and losses in the democratic transition. The crisis of the traditional concept of human rights violations as an act of state.
6. Electoral processes within the last three years.
7. The role of the church.

Reading:

Miro Quiros, Francisco. "Los Derechos Humanos en América Latina," Los Fundamentos Filosóficos de los Derechos Humanos, UNESCO, pp. 334-49.

- Rey, Juan Carlos. "Problemas de la Transición Democrática y de la Consolidación de la Democracia en América Latina," Agenda para la Consolidación de la Democracia en América Latina, San José: Servicio Editorial IIDH, pp. 337-98.
- Rial, Juan. "Elecciones y Democracia en América Latina," Transición Democracia en América Latina: Reflexiones sobre el debate actual, San José: Servicio Editorial IIDH, pp. 139-47.
- Verdesoto, Luis. "Democracia y Centro Político en América Latina," América Latina: Desarrollo y Perspectivas, FLACSO, pp. 149-65.
- Zalaquett, José, "Democracia y Derechos Humanos," Agenda para la Consolidación de la Democracia en América Latina, San José: Servicio Editorial IIDH, pp. 337-98.

(b) Central America - 1

1. The Central American crisis. The last fifteen years. The regional trade crisis. Central America.
2. The Central American conflict: Nicaragua.
3. The Central American conflict: El Salvador.
4. The Central American conflict: Guatemala.
5. The Central American conflict: repercussions for other countries.
6. Negotiation efforts: Contadora and other antecedents.
7. The peace plan.

Reading:

- Aguilera, Gabriel. "La Democracia y el Conflicto Belico en Centroamerica," La Situación Estratégica de América Latina, CLADDE-RIAL, 1987, pp. 59-69.
- Callejas, Policarpo. "La Crisis Centroamericana y los Esfuerzos por Encontrar la Solución Pasífica," Curso de Derecho Internacional, OEA, pp. 201-15.
- Chacon, Edgar Orlando. Los Procesos de Negociación en Centroamerica, El Grupo de Contadora y el Proceso de Esquipulas y la Política de Estados Unidos en la Region, Guatemala: Universidad de San Carlos, 1990, pp. 1-122.
- Gomariz, Enrique. Balance de una Esperanza: Esquipulas II un año despues, FLACSO, U. Paz, CSUCA, pp. 37-61.

(c) Central America - 2

1. Central America under international scrutiny.
2. The consequences of conflict: economic situation.
3. The consequences of conflict: refugees.
4. Regional political changes. Elections. An analysis of two electoral processes: Nicaragua and Guatemala.
5. International assistance programs.
6. The impact of human rights on new political conditions.

Reading:

- Crawley, Eduardo. "Political Change in Central America Since 1980," Central America: Crisis and Possibilities, Stockholm:

- R. Garcia, 1988.
- Cruz Salazar, José. "Centroamerica, Elecciones Generales 1989-90, Retrospectiva," Guatemala, ASIÉS, 1990.
- Duran, Esperanza, "Western Europe's Role in the Central American Crisis: Possibilities and Limitations," Central America: Crisis and Possibilities, Stockholm: R. Garcia, 1988.
- Menjuvar, Rafael, "La Pobreza en América Central," 1989, pp. 113-124.
- Maira, Luis, "La Paz en América Central. Los Factores Internacionales y sus Perspectivas," América Central hacia el 2000, Nueva Sociedad, pp. 51-70.

Part VI: Obstacles to Democratic Development

(a) The Economic Crisis

1. Economic, social and cultural rights in international and Latin American legislation.
2. The economic crisis in Latin America. The foreign debt.
3. The balance of payments and the lack of infrastructure.
4. Violence as a result of the economic crisis.
5. Integrated development and human rights. Future perspectives.
6. Ineffective legal mechanisms for the defense of economic, social and cultural rights.

Reading:

- Ayales, Edgar. "Análisis de la Deuda Externa Latinoamericana y su Incidencia in los Procesos de Desarrollo Economico Politicos," Derechos Economicos y Desarrollo in América Latina, San José: Servicio Editorial IIDH, 1991, pp.47- 58.
- Feinberg, Richard. "Deuda Centroamericana: Soluciones Genuinas, Caso por Caso," Recuperación y Desarrollo de Centroamericana, San José: Duke University- Trejos Hermanos, 1989, pp. 263-81.
- Fuentes, Juan y otro. "Central American: Foreign Debt and Turbulence in Small Countries," Central America: Crisis and Possibilities, Stockholm: R. Garcia, 1988, pp. 101-21.
- Gros Espiell, Hector. Los Derechos Economicos, Sociales y Culturales en el Sistema Interamericano, San José: Libro Libre, 1986, pp. 51-77.
- Kaplan, Marcos. "La gobernabilidad del Estado Democrático," Agenda para la Consolidación de la Democracia en América Latina, San José: Servicio Editorial IIDH, 1990, pp. 421-46.
- Nikken, Pedro. "El Regimen Juridico de Protección de los Derechos Economicos, Sociales y Culturales," Derechos Economicos y Desarrollo en América Latina, San José: Servicio Editorial IIDH, 1991, pp. 16-26.
- Rivera, Eugenio y otros. Centroamerica, Política Economica y Crisis, pp. 175-80.

(b) The Institutional Crisis

1. The national level: the Congressional crisis.
2. The national level: the judicial crisis.

3. The national level: the executive crisis: power without power. Military presence.
4. The national level: the political party crisis: Brazil, Guatemala, Peru.
5. The international level: the OAS crisis and the Inter-American system.

Reading:

- Apazo, Andrés y otro. Esquipulas II, una tarea pendiente, pp. 111-22.
- Remiro Brontons, Antonio, La Hegemonía Norteamericana Factor de Crisis de la OEA, pp. 29-59.
- Rial, Juan. "Seguridad y democratización en el contexto de los procesos de transición," Agenda para la Consolidación de la Democracia en América Latina, San José: Servicio Editorial IIDH, 1990, pp. 399-420.
- Stambouli, Andrés. "Los Partidos Políticos," Agenda para la Consolidación de la Democracia en América Latina, pp. 479-90.
- Vega Carballo, José. "Partidos Políticos y Construcción de la Democracia en Centroamérica: Obstáculos y Perspectivas," Los Partidos Políticos en Centroamérica, pp. 33-46.

(c) Specific Sectors

1. The discrimination phenomenon.
2. Discrimination of the marginalized.
3. The status of indigenous populations.
4. The status of women.
5. The status of refugees and the displaced.
6. Integrated development: the only solution.

Reading:

- Aguayo, Sergio, "Las Poblaciones Desplazadas y la Recuperación y el Desarrollo Centroamericano," Recuperación y Desarrollo de Centroamericano, San José: Duke University-Trejos Hermanos, 1989, pp. 21-41.
- Odio, Elizabeth, "El Principio de la no discriminación: El Caso de los Derechos de la Mujer," Revista IIDH, no 1, enero-junio, 1985, pp. 57-73.
- Peña, Felix, "La Integación Regional: Nuevas realidades, nuevos conceptos y mecanismos," Anuario Jurídico Interamericano, OEA, 1980, pp. 3-16.
- Picado, Sonia, Tolerancia y Discriminación, Conferencia impartida en el VIII Curso Interdisciplinario en Derechos Humanos, San José, setiembre 1990.
- Sepulveda, Cesar, "La Protección de los refugiados en América." Alcances y Limitaciones, Anuario Jurídico Interamericano, OEA, 1982, pp. 233-82.
- Stavenhagen, Rodolfo, "Los Derechos Indígenas: Nuevo enfoque del sistema internacional," Antología Básica, pp. 223-57.

Part VII: Future Management of the Past

1. Political change: The demand to judge those responsible for human rights violations. The weakness of civil governments. Confrontations between human rights groups and civil governments.
2. The proposal of "Nunca Mas": Argentina, Chile, Brazil.
3. The pardon as a solution: Argentina, Chile, El Salvador, Uruguay.
4. Educations as a solution: How?
5. The future of Non-Governmental Organizations.
6. Central America: the past which still exists.

Reading:

- Alfonsín, Raul. "La necesidad de una convergencia política," Agenda para la Consolidación de la Democracia en América Latina, San José: Servicio Editorial IDDH, 1990, pp. 529-48.
- Apazo, Andrés y otro. Esquipula II, una tarea pendiente, pp. 378-401.
- Betancur, Belisario, "Escrutinio Sobre el Futuro de América Latina," Agenda para la Consolidación de la Democracia en América Latina, pp. 549-60.
- Kirpal, Prem, "Los Derechos Humanos y su Situación Actual. Nuevas Orientaciones en Educación. Mirando Hacia el Futuro," Los Fundamentos Filosóficos de los Derechos Humanos, UNESCO-Serbal, pp. 308-339.
- Molina, German, "Educación en Derechos Humanos y Proceso de Transición a la Democracia," Retos de la Recuperación Democrática: Hacia una Educación para los Derechos Humanos y la Paz, CEAAL, pp. 21-32.
- Nikken, Pedro, "La Cooperación Internacional para la Promoción y Defensa de la Democracia en América Latina," Agenda para la Consolidación de la Democracia en América Latina, San José: Servicio Editorial IDDH, 1990, pp. 491-528.
- Tappa, Patricio, "Argentina: La Legalidad Burlada," Boletín Comisión Andina de Juristas, número 27, diciembre 1990, pp. 25-31.

Human Rights in Africa

Course developed by Prof. Nasila S. Rembe and taught at the National University of Lesotho, Roma, Lesotho (1991-1992)

Objectives: This course aims to make students appreciate the national, regional and international dimensions of promotion and protection of human rights and the problems encountered. While the focus is on Africa, students are given a firm grounding in international human rights norms and institutions so that they can develop a comparative perspective on the African situation. Particular attention is devoted to human rights problems in southern Africa, as well as to the African Charter on Human and Peoples' Rights which establishes procedures for resolving violations of rights.

Structure: This is a one semester course, three hours per week.

Topics Covered

1. Human Rights: nature and place of human rights in contemporary international society; universal and regional approaches to human rights. Legal concepts inherent in the notion of "human rights" and problematics in their juristic definition.
2. African traditional societies and traditional African conceptions of human rights; individual and group rights; non-vindication of rights; the imperative of equity and justice.
3. Human rights in colonial African countries. The nature of the colonial state and colonial administration. The imperative of self-determination as a composite human rights.
4. Safeguarding human rights in post-independent Africa; the political and economic set-up; the judiciary and the administration of justice; the constitution and Bill of Rights provisions; the ombudsman.
5. Genesis of the African Charter on Human and Peoples' Rights; African and extra-African initiatives; the specificity of the African Charter.
6. Substantive rights protected by the African Charter; traditional rights; social and economic rights; group and solidarity rights; the concept and dimension of the right to development; the inter-relationship of rights. Balancing rights and duties of individuals and states; potential areas of conflict.
7. The system of promotion and organs of protection: the African Commission on Human and Peoples' Rights; the system of petition; the applicable law; the absence of an African Court of Human Rights; enforcement.

8. Implementation and problems of wider acceptance of the Charter; ratifications; legislative application of the Charter in diverse political, social and economic formations -- one-party States, military governments, multi-party and limited party states; minority rights; religion and traditions. Dissemination and sensitization to human rights.

9. Apartheid and racial discrimination; apartheid and self-determination; apartheid as in international crime; international and regional measures to combat apartheid. The role of the courts. The right to disobey.

10. Post-apartheid South Africa.

Recommended Readings

Kunig, P., Benedek, W. & Mahalu, E.R. (eds.). Regional Protection of Human Rights by International Law: The Emerging African Systems. Baden-Baden: Nomos Verlagsgesellschaft, 1985.

Rembe, N.S. African and Regional Protection of Human Rights. A Study of the African Charter on Human and Peoples' Rights: Its Effectiveness and Impact on the African States. Rome, Italy: Leoni Editore, 1985.

Eze, E.O. Human Rights in Africa: Some Selected Problems. Lagos: The Nigerian Institute of International Affairs, 1976.

Additional Readings

Ginther, K. & Benedek, W. New Perspectives and Conceptions of International Law: An Afro-Asian Dialogue. Vienna & New York: Springer-Verlag, 1983 (especially Part B, pp. 45-170).

Welch, Claude E. Jr. & Meltzer, R.I. (eds.). Human Rights and Development in Africa. Albany: State University of New York Press (especially Parts I-II, pp. 7-203).

General Readings

The following list is designed to offer a variety of approaches on human rights problems in Africa -- in their historical, interdisciplinary and comparative perspectives; African and non-African conceptions of rights; implementation models and safeguards; as well as problems and prospects.

Adegbite, L.O. "African Attitudes to the International Protection of Human Rights," in Asjborn Eide and August Shou (eds.). International Protection of Human Rights: Proceedings of the Seventh Nobel Symposium, Oslo, September 25-27, 1967. Stockholm: Almqvist & Wiksell, 1968.

Aguda, A. & Aguda, O. "Judicial Protection of Human Rights in Nigeria and Sudan before and during Military Rule," Journal of African Law, Vol. 16 (1972), p. 130-144.

Alston, P., and Eide, A., Discussion Paper Prepared for the African Seminar on Human Rights and Development. Gaborone: University College, May 24-29, 1982.

Alston, P., "A Third Generation of Solidarity Rights: Progressive Development or Obfuscation of International Human Rights Law?" Netherlands Internationall Law Review, Vol. 29 (1982) p. 307 ff.

Amaaha, O., Problems of Human Rights in Africa, Legon Accra: University of Ghana (n.d.).

Aluko, O., The Organisation of African Unity and Human Rights. Round Table, Vol. 283. (July 1981) p. 234-42.

Ault, D., "The Development of Individual Rights to Property in Tribal Africa", Journal of Law and Economics, Vol. 22, No. 1, (1979) p. 163 ff.

Babu, A.R., "Human Rights in Africa: The Need for an OAU Council on Human Rights," African Currents, No. 14 (1979) p. 2-3.

"Africa and Human Rights" New Africana, London, (March 1979) p. 83-85.

Barnett, L., "The Present Position Regarding the Enforcement of Human Rights in the Commonwealth," West Indian Law Journal, Vol. 2 (1980) p. 97-103.

Bedjaoui, M., "The Right to Development and the jus cogens" Lesotho Law Journal, Vol. 2, No. 2 (1986) p. 93-129.

Bello, E.G., "Human Rights: The Rule of Law in Africa", ICLQ, Vol. 30 (1981) p. 628-637.

Bozeman, A., Conflict in Africa: Concept and Realities. Princeton, 1976.

Burgenthal, T. "International and Regional Human Rights Law and Institutions: Some Examples of their Interaction", Texas International Law Journal, Vol. 12 (1977)

Cowen, D.V., "Human Rights in Contemporary Africa," Natural Law Forum, Vol. 9 (1964) p. 1.

Cukwurah, A.O., "The Position of South Africa in the Changing Political Situation of Southern Africa," Indian Journal of International Law. Vol. 18, No. 1 (1978) p. 60-75.

Dieng, A. and Satola, D., "Independence of the Judiciary and the African Charter", paper submitted at ABA-ICJ joint Seminar on the Independence of the Judiciary and the Legal Profession in Africa, Lusaka, Zambia, November 10-14, 1986, p. 1-5.

Dudley, "Human Rights Practices in the Arab States: The Modern Impact of Sharias Values, Georgia Journal of International & Comparative Law, Vol. 12 91982) p. 55.

Elias, T.O., "Human Rights and the Developing Countries", in New Horizons in International Law, 1979, chapter 9.

Esiemokhai, E., "Towards Adequate Defence of Human Rights in Africa," Quarterly Journal of Administration, Vol. 24, No. 4 (1980) p. 451-461.

Eze, O.C., "Prospects for International Protection of Human Rights in Africa", The African Review, Vol. 4 (1974) p. 79-80.

Farah, "South Africa's Apartheid Policy: An Assessment", in H.C. Brooks (eds.), Africa and International Organisations, The Hague, 1974.

Ghai, Yash, "The Rule of Law Legitimacy and Governments" (n.d.)

Gittleman, R., "Peoples' Rights: A Legal Analysis" Virginia Journal of International Law, Vol. 22, No. 4 (1982) p. 667-714.

Ghutto, S.B.O., "Judges and Lawyers in Africa Today: Their Powers, Competence and Social Role." Paper presented at joint ABA-ICJ Seminar on the Independence of the Judiciary and the Legal Profession in Africa", Lusaka Zambia, November 10-14, 1986.

Haille, M., "Human Rights, Stability and Development in Africa: Some Observations on the Concept and Reality", Virginia Journal of International Law, Vol. 24, No. 3 (1984) p. 575-615.

Howard, R., "Evaluating Human Rights in Africa: Some Problems of Implicit Comparisons", Human Rights Quarterly, p. 160-179.

----- "The Dilemma of Human Rights in Sub-Saharan Africa", International Journal, Vol. 35 No. 4 (1980) P. 724-47.

Huaraka, T., "The African Charter on Human and Peoples' Rights: Perspectives and Prospects", paper presented at African International Lawyers Conference, Lusaka, April 1986.

International Commission of Jurists, Human Rights in a One-Party State, London: Search Press 1978.

----- Human Rights in Islam, Geneva, 1982.

James, R.W., "Implementation of the Arusha Declaration: The Role of the Legal System", The African Review, Vol. 3, No. 2 (1973) pp. 179-208.

Kiapi, A., "Prologomenia on Judicial Independence in East Africa", paper presented at a joint ABA-ICJ Seminar on the Independence of the Judiciary and the Legal Profession in Africa, Lusaka, November 10-14, 1986.

Kunig, P., "The Protection of Human Rights by International Law in Africa", German Yearbook of Int'l Law, Vol. 25 (1982) p. 138-168.

Lawyers for Human Rights, (A series of debates on South African apartheid system and whether judges should not resign, Bulletin No. 3 (1984).

Laville, "The Protection of Human Rights within the Framework of Existing Regional Organisations", in Robertson (ed.), Human Rights in National and International Law, 1968.

Legessee, A.M., "Human Rights in African Political Culture," in K.W. Thompspon (ed.), The Moral Imperative of Human Rights: A World Survey. Washington: Press of America, 1980, p. 125-128.

Maope, K., "Independence of the Judiciary in Commonwealth Africa", paper presented at the joint ABA-ICJ Seminar on the Independence of the Judiciary and the Legal Profession in Africa, Lusaka, November 10-14, 1986.

Mazrui, A., "Academic Freedom in Africa: The Dual Tyranny", African Affairs, Vol. 741 (1975) p. 393-400.

Nbaye, K., "Emergence of the "Rights to Development" as a Human Right in the Context of a New International Economic Order." Paper presented at Meeting of Experts on Human Rights, Human Needs and the Establishment of a New International Economic Order, Paris: UNESCO, 19-23 June 1978.

Mbaye, K., "Human Rights in Africa", in K. Vasak & P. Alston (eds.), The International Dimensions of Human Rights, Westport/Paris, 1982, p. 583 ff.

Melander, G., and Nobel, P., African Refugees and the Law, Uppsala: The Scandinavian Institute of African Studies, 1978.

Mojekwu, C., "International Human Rights: The African Perspective" in J.L. Nelson & V.M. Green (eds.), International Human Rights Contemporary Issues, New York: Stanfordville, Human Rights Publishing Corp, 1980, p. 85-97.

Mower, G.A. Jr., "Human Rights in Africa: A Double Standard", Human Right Journal, Vol. 9 (1976) p. 39-70.

Ndiaye, "The Place of Human Rights in the Charter of the Organisation of African Unity," in K. Vasak, P. Alston (eds.) The International Dimensions of Human Rights, Westport/Paris, 1982, p. 601 ff.

Neff, C.S., "Human Rights in Africa: Thoughts on the African Charter on Human and Peoples' Rights in the Light of the Case Law from Botswana, Lesotho and Swaziland", ICLQ, Vol. 33 (1984) p. 331-347.

Nyerere, J.K., "Stability and change in Africa", Dar-es-Salaam: Government Printers, 1969.

Okere, O.B., "The Protection of Human Rights in Africa and the African Charter on Human and Peoples' Rights: A Comparative Analysis with the European and American Systems." Human Rights Quarterly, p. 161-179.

_____ "Human Rights in Southern African in the Context of Public International Law," Glendale Law Review, 1978, p. 219.

Okolie, C.C., International Law Perspectives of the Developing Countries: The Relationship of Law and Economic Development to Basic Human Rights, New York: Nok Publishing House, 1978.

Okolo, J.E., "Free Movement of Persons in ECOWAS and Nigeria's Expulsion of Illegal Aliens", The World Today, (1984) p. 428-436.

Okoth-Ogendo, "National Implementation of International Responsibility: Some Thought on Human Rights in Africa", Eastern Africa Law Review, Vol. 10 (1974) p. 1-16.

Paul, J.C.N., "African Legal Studies: Observations on the State of the Art", Paper prepared for the Canadian African Studies Association, Calgary, 1981.

Pollis, A. & Schwab, P., "Human Rights: A Western Construct with Limited Applicability", p. 1-43.

Ramcharan, B.G., "Human Rights in Africa-Wither Now?" University of Ghana Law Journal, Vol. 12 No. 2 (1975) p. 88-105.

_____ (ed.) Human Rights Thirty Years After the Universal Declaration, Martinus Nijhoff, 1979.

Read, J.S., "Human Rights and the Rule of Law in Africa", paper presented at the African Seminar on Human Rights and Development, Gaborone: University College, May 24-29, 1982.

Robertson, A.H. "Commission on Human Rights in Africa", Human Rights Quarterly, Vol. 2 (1969) p. 696 ff.

Sachs, A., "Towards the Constitutional Reconstruction of south Africa", Lesotho Law Journal, Vol. 2, No. 2 (1986) p. 205-210.

Shimba, L.S., "The Status and Rights of Judges within the Context of African States", joint ABA-ICJ Seminar on the Independence of the Judiciary and the Legal Profession in Africa", Lusaka, November 10-14, 1986.

Tevoedjere, A., "Human Rights and Democracy in Africa", United Nations University Annual Lecture Series No. 2, Bonn, October 16, 1985.

Tsikata, T., "Human Rights and Human Development", paper presented at the African Seminar on Human Rights and Development, Gaborone: University College, May 24-29, 1982.

Tucker, C.M., "Regional Human Rights Models in Europe and Africa: A Comparison" Syracuse Journal of International Law, Vol. 10, No. 135 (1983) p. 135-168.

Turack, D.C., "The African Charter on Human and Peoples Rights: Some Preliminary Thoughts", Akron Law Review, Vol. 17, No. 3 (1984) p. 365-381.

Umozurike, U.O., "The African Charter on Human and Peoples' Rights", American Journal of International Law, Vol. 77 (1983) p. 902-112.

Wai, D.M., "Human Rights in Sub-Saharan Africa," in A. Pollis and P. Schwab, (eds.), Human Rights, Cultural and Ideological Perspectives, New York: Praegen, 1979 p. 115-144.

Wani, I.J., "Humanitarian Intervention and the Tanzanian-Uganda War", Horn of Africa, Vol. 3 No. 2 (1980) p. 18-27.

Weeramantny, C.G., Apartheid: The Closing Phase, Melbourne: Lantana, 1980.

Weinstein, W., "Africa's Approach to Human Rights at the United Nations", Issue, Vol. 6, No. 4 (1976) p. 14-21.

"Human Rights in Africa: A Long Awaited voice", Current History, Vol. 78, No. 455 (March 1980).

Weisfelder, R.F., "The Decline of Human Rights in Lesotho: An Evaluation of Domestic and External Determents."

Welch, C.E. Jr., "The OAU and Human Rights: Towards a New Definition" Journal of Modern African Studies, Vol. 16, No. 4 (1978) p. 639-656.

Willimas, D.V., "The Authoritarianism of African Legal Orders Contemporary Crisis", Vol. 5 (1981) p. 251.

Wiseberg, L.S., "Human Rights in Africa: Towards the Definition of the Problem of a Double in Standard", Issue Vol. 6, No. 4 (1976) p. 3-13.

Human Rights and Constitutionalism in Post-Communist Poland and Central Europe

Course developed by Polish scholar, Prof. Wiktor Osiantynski, and taught at Harvard Law School, Cambridge, Massachusetts, USA (1991)

Description

This course analyzes the evolution of constitutionalism and human rights in the post-Communist world of East-Central Europe. In so doing, it considers the dynamics of the relationship among the individual, state, and civil society, together with the role of constitutions as major vehicles of social change.

The course compares Western concepts of constitutions (i.e., the Bill of Rights and separation of power), as well as mechanisms for the protection of rights, with the legal-political regimes that prevailed under Communism and with those which are now emerging.

Although based on the Polish experience, this course also considers the traditions and recent developments in the Czech and Slovak Republic, Hungary, and the former USSR. The effort throughout is to locate constitutional and legal changes within a broader framework of history, politics and society.

Course Outline

- Session 1: Introduction, Basic Concepts.
- Session 2: East Central Europe: An Overview.
- Session 3: Marxism and Communism in Central Europe.
- Session 4: Human Rights and the Fall of Communism.
- Session 5: Transitions.
- Session 6: The Role for Constitutions and Individual Rights During the Transition from Communism.
- Session 7: Constitution-Making after Communism.
- Session 8: A Review of Draft Constitutions in Poland.
- Session 9: Human Rights after Communism.
- Session 10: Civil Liberties.
- Session 11: Participatory Rights: The Rights of Minorities.
- Session 12: Due Process, the Judiciary.
- Session 13: Economic Freedom v. Social and Economic Rights.
- Session 14: Conclusions: Rights in the Post-Communist World.

Required Readings:

University of Chicago Law Review, Vol. 58, no 2, Spring 1991.

Additionally, a number of required and suggested readings will be distributed in class throughout the course.

Documents: (Handouts)

Draft Constitutions of Poland (Sejm and Senate projects)
Constitution of Hungary

Constitution of Hungary

Constitutional Act of January 9, 1991 instituting the Charter of Fundamental Rights and Freedoms as a Constitutional Act of the Federal Assembly of the Czech and Slovak Federal Republic.

The Helsinki Committee in Poland, Bill of Rights and Freedoms. Draft prepared by Marek A. Nowicki, Marek Nowicki and Andrzej Rzeplinski. Warsaw, October 1990.

The Helsinki Committee in Poland, Human Rights in Poland, 1989. Report No. 8. Warsaw 1990.

The Helsinki Committee in Poland, Human Rights Bulletin 7/8 1990. Warsaw 1990.

Recommended Books

Brunner, Georg, et al. Before Reforms: Human Rights in the Warsaw Pact States, 1971-1988. New York: St. Martin's Press, 1990.

Brzezinski, Zbigniew. The Grand Failure: The Birth and the Death of Communism in the Twentieth Century. New York: MacMillan Publishing Co., 1990.

Garton Ash, Timothy. The Uses of Adversity. Essays on the Fate of Central Europe. New York: Random House, 1989.

Graubard, Stephen R. (ed.). Eastern Europe... Central Europe... Europe. Boulder, Colorado: Westview Press, 1991.

Keane, John (ed.). Civil Society and the State. London: Verso, 1988.

Henkin, Louis. The Age of Rights. New York: Columbia University Press, 1990.

Henkin, Louis and Albert J. Rosenthal (eds.). Constitutionalism and Rights. The Influence of the United States Constitution Abroad. New York: Columbia University Press, 1990.

Rothschild, Joseph. Return to Diversity: A Political History of East Central Europe Since World War II. Oxford University Press, 1989.

Stokes, Gale. (ed.). From Stalinism to Pluralism: A Documentary History of Eastern Europe Since 1945. Oxford University Press, 1991.

Urban, George R. (ed.). Social and Economic Rights in the Soviet Bloc. A Documentary Review Seventy Years After the Bolshevik Revolution. New Brunswick: Transaction Books, 1988.

Other Books Related to the Course

Brown, J.F. Eastern Europe and Communist Rule. Durham: Duke University Press, 1988.

Brown, J.F. Surge to Freedom: The End of Communist Rule in Eastern Europe. Durham: Duke University Press, 1991.

Dahrendorf, Ralf. Reflections on the Revolution in Europe. New York: Random House, 1990.

Lovenduski, Joni & Jean Woodall. Politics and Society in Eastern Europe. Indiana University Press, 1987.

MacFarlane, L.J. Human Rights: Realities and Possibilities. New York: St. Martin's Press, 1990.

Misiewicz, Sophia & Aaron Trehub. Social and Economic Rights in the Soviet Union and Eastern Europe. New Brunswick: Transaction Publishers, 1988.

Mastney, Vojtech, & Jan Zielonka. Human Rights and Security: Europe on the Eve of a New Era. Boulder, Colorado: Westview Press, 1991.

Ramet, Sabrina P. Social Currents in Eastern Europe: The Sources and Meaning of the Great Transformation. Durham, North Carolina: Duke University Press, 1991.

Thompson, Kenneth W. & Rett R. Ludwikowski (eds.). Constitutionalism and Human Rights: America, Poland and France. A Bicentennial Colloquium at the Miller Center. The White Burkett Miller Center of Public Affairs. University of Virginia: University Press of America, 1991.

International Protection of Human Rights

Course developed by Prof. Paul Hunt and offered at the School of Law, University of Waikato, Hamilton, New Zealand (1992)

Objectives: An optional one semester course for law students in their final year of undergraduate study, it is designed to provide students with a practical introduction to international human rights law. Its regional focus is Asia and the Pacific.

Course Outline

1. The Development of International Human Rights Law

Precursors of international human rights law: anti-slavery measures, ILO, minorities' rights. The UN Charter and International Bill of Rights. The "domestic jurisdiction" rule. Three generations of rights: civil/political, economic/social/cultural, and solidarity rights. Universality of rights and cultural relativism.

Issue-specific human rights treaties, e.g., Convention Against Torture, Child Convention.

Regional human rights instruments, e.g., European Commission on Human Rights, African Charter. Note the absence of a regional treaty for Asia and the Pacific.

Distinguish traditional public international law (regulating inter-state relations) and international human rights law (bestowing rights on individuals). The innovative role of human rights within public international law. A Precedent to be applied in other areas of public law?

2. The Implementation of International Human Rights

The shift of emphasis from standard-setting to implementation.

Charter-based procedures: the 1503 procedure, thematic and country investigations. Note the procedures of the Commission on the Status of Women.

Treaty-based procedures, e.g., Human Rights Committee, CEDAW. Mechanisms for the submission of periodic reports and the receipt of complaints.

3. Regional Human Rights Treaties

The arguments for and against regional systems of human rights protection.

Overview of the current European, inter-American and African systems. Note the role of the International Commission of Jurists in relations to the African Charter.

The work of the UN and LAWASIA towards a human rights instrument for the Asia-Pacific region. Problems and prospects.

Consideration of the current draft Pacific Charter on Human and Peoples' Rights, comparing and contrasting it with the African Charter.

4. Economic, Social and Cultural Rights

Compare the nature of civil/political and economic/social/cultural rights. Are they inherently different? Are economic/social/cultural rights merely goals or aspirations?

Are economic/social/cultural rights justiciable, i.e., can they be the subject of adjudication and enforcement through traditional legal mechanisms?

An examination of the International Covenant on Economic, Social and Cultural Rights and the practice of its Committee. The proposal for an Optional Protocol to the Covenant.

The European Social Charter. The "Limburg Principles". "Indicators" and "benchmarks" in relation to the implementation of economic/social rights. The impact of Structural Adjustment policies.

5. Human Rights Focus

In this course module, some of the students present their own study-papers. They choose either: (a) a single human right, such as the prohibition against torture, or (b) a broader human rights theme, such as the rights of women, indigenous peoples or minorities. In relation to their chosen issue, the students examine the substantive law (e.g., caselaw of the Human Rights Committee, if any) and international procedures.

6. Country Focus

In this course module, some of the students present their own study-papers. From the standpoint of international law and procedures, they consider the human rights situation of a country within the region, such as: (a) Papua New Guinea, with particular reference to Bougainville; (b) Fiji, with particular reference to the coup of 1987 and the position of the Indian community; or, (c) Nauru, with particular reference to environmental exploitation.

7. New Zealand/Aotearoa's Foreign Policy and Human Rights

To date, the role of human rights in the country's foreign policy. What is -- and what should be -- the link (if any) between the country's trade, aid and human rights policies?

**Seminar on Nationalism,
Minority Rights and Self-Determination**

Course developed by Prof. Hurst Hannum, Tufts University, The Fletcher School of Law and Diplomacy, Medford, Mass. in cooperation with Harvard University, Cambridge, Mass. (Spring 1991)

Required Texts

Buchheit, Lee C. Secession: The Legitimacy of Self-Determination, Yale University Press, 1978.

Hannum, Hurst. Autonomy, Sovereignty and Self-Determination: the Accommodation of Conflicting Rights, University of Pennsylvania Press, 1990.

Kohn, Hans. Nationalism: Its Meaning and History, Malabar, Florida: Krieger Publishers, 1982.

Mayall, James. Nationalism and International Society, Cambridge University Press, 1990.

Recommended Texts:

Birch, Anthony H. Nationalism and National Integration, London: Unwin Hyman, 1989.

Claude, Inis L, Jr. National Minorities, Harvard University Press, 1955.

Cobban, Alfred. The National State and National Self-Determination, New York: Thomas Y. Crowell, revised ed., 1969.

Emerson, Rupert. Self-Determination Revisited in the Era of Decolonization, Harvard University Center for International Affairs, 1964.

Horowitz, Donald L. Ethnic Groups in Conflict, University of California Press, 1985.

Macartney, C.A. National States and National Minorities, Oxford, 1934.

Neuberger, Benjamin. National Self-Determination in Post-Colonial Africa, Lynne Rienner Publishers, 1986.

Pomerance, Michla. Self-Determination in Law and Practice, Boston: Martinus Nijhoff, 1982.

Sigler, Jay A. Minority Rights, A Comparative Analysis, Greenwood, 1983.

Sohn, Louis B. and Buergenthal, Thomas. International Protection of Human Rights, Bobbs-Merrill, 1973.

Suredam, Rigo A. The Evolution of the Right of Self-Determination, Sijthoff, 1973.

Van Dyke, Vernon, Human Rights Ethnicity, and Discrimination, Greenwood Press, 1985.

Class 1: Introduction to Course; Definitions

Hannum, chapters 1 & 2.
Kohn, chapters 1-3.
Mayall, chapter 1.

Class 2: The Development of Nationalism up to 1919; Italian and German Unification; What is a Nation?

Kohn, chapters 4-8, and pp. 93-115, 118-25, 135-40, 151-69.
Mayall, chapter 2, and pp. 35-45.
Safire, "Send in Sovereign for Socialist," New York Times Magazine, January 6, 1991.

Class 3: The Versailles Peace Conference; the Minority Rights Treaties

Hannum, pp. 50-4.
Macartney, C.A. pp. 273-94, 502-06.
Sigler, chapter 3.

Class 4: Minority Rights Under the League of Nations

Hannum, pp. 54-6, 375-84, 389-94.
Sohn & Buergenthal, pp. 213-302.

Class 5: Self-Determination from 1919 to 1945: Colonies, Non-Self-Governing Territories, Mandates, and Trusteeships

Covenant of the League of Nations, article 22.
Charter of the United Nations, articles 73-91.
Hannum, pp. 27-33, 370-5 (Aland Islands).
Sohn and Buergenthal, pp. 337-69.

Class 6: Self-Determination in the United Nations Era: Decolonization and "peoples"

UN General Assembly Resolutions: 1514 (1960), 1541 (1960) and 2625 (1970).
Buchheit, chapters 1, 2.
Hannum, chapter 3 and pp. 337-41, 400-06.
Mayall, chapter 4 and pp. 45-9.

Class 7: The Rights of Indigenous Peoples; the ILO in 1957 and 1989

Hannum, chapter 5.
ILO Conventions No. 107 (1957) and No. 169 (1989).

Class 8: Contemporary Formulations of the Rights of Minorities and Indigenous Peoples

Document of the Copenhagen Meeting of the Conference on the Human Dimensions of the CSCE (June 1990).

Eide, Asbjorn, Protection of Minorities, UN Doc E/CN.4/Sub.2/1990/46 (1990).

Report of the Working Group on Indigenous Populations (excerpts concerning a Draft Declaration on Indigenous Rights, 1990).

Class 9: Case Study: The Kurds

Buchheit, pp. 153-62.

Hannum, chapter 9.

Class 10: Congo, Bangladesh and Biafra

Buchheit, pp. 141-53, 162-76, 198-214.

Class 11: Case Study: Northern Ireland

Hannum, chapter 11.

Class 12: Self-Determination in the Post-Colonial Era; the Impact of Transnational Regionalism; the End of the Nation-State?

Buchheit, chapter 4.

Hannum, chapter 19 and pp. 407-12.

Mayall, chapter 7, 8 and Conclusion (recommended, chapters 5, 6).

Race, Religion and Culture in International Law

Course taught by Professor Natan Lerner, Faculty of Law, Tel Aviv University, Israel (1992)

Structure: This is a full-year seminar. The Hebrew bibliography is not reproduced here.

Course Outline:

- 1. Equality and Discrimination in International Law.** Historical overview. Group membership as a ground for discrimination. The non-discrimination clause and international human rights law. The evolution of minority and group rights.
- 2. Racism.** The United Nations Convention and Declaration on the Elimination of All Forms of Racial Discrimination. Other relevant instruments.
- 3. Discrimination and Intolerance based on Religion or Belief.** The United Nations Declaration and other relevant instruments.
- 4. Cultural Rights.** Prohibition of discrimination in the field of education. The UNESCO Convention and other relevant documents.
- 5. The Protection of Some Specific Rights and Groups.** Genocide. Slavery. Indigenous Populations. Migrant workers. Apartheid. Anti-Semitism.
- 6. Measures of implementation at the international and regional levels.**

Basic Bibliography:

Dinstein, Y. International Law, Vol. 1.

Lerner, N. Group Rights and Discrimination in International Law. 1991.

Lerner, N. The U.N. Convention on the Elimination of All Forms of Racial Discrimination. 1980.

McKean, W. Equality and Discrimination Under International Law. 1983.

Meron, T. Human Rights Law-Making in the United Nations. 1986.

Vasak, K. (ed.). The International Dimensions of Human Rights. 1978.

Israel Yearbook on Human Rights. Vols. 1-20.

Human Rights and Ethnic Minorities

Course developed and offered at Utrecht University, The Netherlands (1992)

1. Introduction

- Antonio Cassese, "Are Human Rights Truly Universal?" in: Human Rights in a Changing World, (Cambridge: Polity Press, 1990), p. 48-67.
- P.R. Baehr, "Universaliteit versus cultureel waardenrelativisme", in: Mensenrechten: Bestanddeel van het Buitenlands Beleid, (Meppel: Boom, 1989), p. 20-29.
- Hurst Hannum, "The Limits of Sovereignty and Majority Rule: Minorities, Indigenous Peoples, and the Right to Autonomy", in: Ellen L. Lutz, Hurst Hannum and Kathryn J. Burke (eds.), New Directions in Human Rights, (Philadelphia: University of Pennsylvania Press, 1989), p. 3-24.
- Milton M. Gordon, "Models of Pluralism: The New American Dilemma", in: Milton M. Gordon (Ed), America as a Multicultural Society, The Annals, Vol. 454, March 1981, p. 178-188.

2. Collective rights

- Jack Donnelly, "Human Rights, Individual Rights and Collective Rights", in Jan Berting et al. (ed.), Human Rights in a Pluralist World: Individuals and Collectivities (Westport/London: Meckler, 1990), p. 63-62.
- J. Herman Burgers, "The Function of Human Rights as Individual and Collective Rights", in: Berting et al. (ed.), Human Rights in a Pluralist World: Individuals and Collectivities (Westport/London: Meckler, 1990), p. 63-74.
- Koo Vander Wal, "Collective Human Rights: a Western View", in: Berting et al. (ed.), Human Rights in a Pluralist World: Individuals and Collectivities (Westport/London: Meckler, 1990), p. 83-98.

3. Right to Self-Determination

- Aureliu Cristescu, The Right to Self-Determination: Historical and Current Development on the Basis of United Nations Instruments, (New York: United Nations, 1981), p. 30-45; 123-125.
- Charlotte Ku, "Equality and Self-Determination: Continuing Challenges for the United Nations", Proteus (Spring 1988), p. 18-26.
- Yoram Dinstein, "Self-Determination and the Middle East Conflict", in: Y. Alexander and R. Friedlander (eds.), Self Determination: National, Regional and Global Dimensions, (Boulder, Col.: Westview Press, 1980), p. 243-258.
- G.J. Veerman, Het Zelfbeschikkingsrecht der Naties en de Rechten van de Mens, (Amsterdam: Academische Pers, 1977), p. 156-174, 187-200.

4. "Minorities", Ethnic Minorities and the Welfare State

- Friedrich Heckmann, "Ethnicity, Nation-State and Political Problems of Ethnic Minorities", Paper presented to seminar "les populations musulmanes en Europe", Poities, November 1991.
- Joseph H. Carens, "Immigration and the Welfare State", in: Amy Gutman (ed.) Democracy and the Welfare State, Princeton (Princeton University Press, 1988), p. 207-230.
- H.B. Entzinger, "Overheidsbeleid", in: H.B. Entzinger & P.J.J. Stijnen (red.), Ethnische minderheden in Nederland, Meppel (Boom) 1990, p. 244-264.
- H.B. Entzinger & A.M.E. Fermin, "Selectie en discriminatie in de multiethnische samenleving", in: W.E. Bakker & P.B. Lehning (red.) Kiezen en verdelen; Selectie van burgers als interventiestrategie, Meppel (Boom) 1991, p. 85-99.

5. Citizenship Theories

- Thomas Hammar, Democracy and the Nation State, Aldershot (Avebury) 1990, p. 41-68.
- Rainer Baubock, "Migration and Citizenship", in: New Community, Vol. 18, No. 1 (October 1991), p. 27-48.
- Anthony D. Smith, "The Myth of the 'Modern Nation' and the Myths of Nations," in: Ethnic and Racial Studies, Vol. 11, No. 1 (January 1988), p. 1-26.

6. Participation of Minorities and Democratic Decision Making

- Gérard de Rham, "Naturalisation: The Politics of Citizenship Acquisition", in: Zig Layton-Henry (ed.), The Political Rights of Migrant Workers in Western Europe, London (SAGE) 1990, p. 158-160/170-185.
- Mark J. Miller, "Political Participation and Representation of Noncitizens", in: W.R. Brubaker (Ed.), Immigration and the Politics of Citizenship in Europe and North America, Lanham (University Press of America) 1989, p. 129-143.

7. Cultural Rights of Minorities

- Thomas Hammar, "The Civil Rights of Aliens", in: Zig Layton-Henry (ed.), The Political Rights of Migrant Workers in Western Europe, London (SAGE) 1990, p. 74-93.
- Council of Europe, "The Cultural Dimension: in: Community and Ethnic Relations in Europe' Final Report of the Community Relations Project of the Council of Europe [MGCR(91)1], Strasbourg 1991, p. 55-63.
- Sjoerd van Koningsveld & Wasif Shadid, "De multi-culturele samenleving ontmaskerd", in: Ron Haleber (red.), Rushdie Effecten, Amsterdam (SUA) 1989, p. 132-148.
- John Rex, The Concept of a Multi-cultural Society; Coventry, (Centre for Research in Ethnic Relations), 1985, p. 1-17.

8. Rights of Peoples

James Crawford, "The Rights of Peoples: Some Conclusions", in: Crawford (ed.), The Rights of Peoples, (Oxford: Clarendon Press, 1988), p. 159-175.

Christian Tomuschat, "Rights of Peoples: Some Preliminary Observations", in: Yvo Hangartner und Stefan Trechsel (eds.), Volkerrecht im Dienste des Menschen: Festschrift fur Hans Haug, (Bern und Stuttgart: Verlag Paul Haupt, 1986), p. 337-354.

9. Rights of Indigenous Peoples

Richard Mulgan, "Should Indigenous Peoples Have Special Rights?" Orbis 33:3 (Summer 1989), p. 375-388.

Julain Burger, "Indigenous Peoples" New Rights for Old Wrongs", in: Peter Davies (ed.), Human Rights, (London and New York: Routledge, 1988), p. 99-110.

10. Rights to Asylum

Leon Gordenker, "Resolving Forced Migrations" in: Refugees in International Politics, (London and Sydney: Croom Helm, 1987), p. 125-143/162-167.

11. Reception of Refugees

Hans Gooszen, Vluchtelingen en asielzoekers: Demografische en sociaal-economische positie in Nederland, 's-Gravenhage (NIDI) 1988, p. 1-21.

Annemarie van Hinsberg, "De Regeling opvang Azielzoekers" in: Literatuurscriptie over het Nederlands asielbeleid in de periode 1980-1990, scriptie FSW/RUU, 1991, p. 48-55.

Ana Vasquez, "The Process of Transculturation: Exiles and Institutions in France", in: Daniele Joly & Robin Cohen (Eds.), Reluctant Hosts; Europe and its Refugees, Aldershot (Avebury) 1989, p. 125-132.

12. Immigration Policy in Europe

Jonas Widgren, "Europe and International Migration in the Future", in: Bill Loescher (Ed.), Refugees and International Relations; Oxford (OUP) 1989, p. 49-61.

Gil Loescher, "The European Community and Refugees", in: Dutch Refugee Council/Netherlands Institute of Human Rights, Refugees in the World: The European Community's Response, Amsterdam/Utrecht 1990, p. 114-127/134-142.

Han Entzinger, "The Lure of Integration", in: The European Journal of International Affairs, 1990, No.4, p. 54-73.

History of Women in India

Course offered in the Department of History, Annamalai University, Tamil Nadu, India (1992)

Unit I. Historical Background - Early and Medieval Periods

Women's role in production (in the village economy and in the urban economy)

Institutions oppressing women -- class structure, caste structure, religion (Hinduism - Islam)

Special forms of oppression (sati, female infanticide, polygamy, purdah)

Unit II. Colonial Period: Traditional Society Changes Under Impact of Colonialism

Conditions of women in the early 19th century

Forces of change: industrialisation and the ruin of women's occupations; changes in the agrarian structure and agrarian misery - impact on women

Industrialization: women enter factories

Urbanization: increase in women's education

Slow and uneven pace of development

The changing family

Social legislation

Early colonial period - colonial state's attack on traditional structures of women's oppression

Later colonial period - colonial state's compromise with feudal forces and orthodoxy - withdrawal from reformist stance

Unit III. Women in Struggle

Agrarian struggles, trade union movement, anti-colonial movement, early phase, Gandhian phase, revolutionary stream

Unit IV. Independent India. Legal Status - Constitutional Guarantees - Legislation

- (1) Personal laws in different communities (marriage, divorce, inheritance, adoption)
- (2) Economic legislation (factory acts, maternity benefit act, act prohibiting night shifts, equal remuneration act, gap between law and implementation)
- (3) Economic status (participation in the labour force, occupational classification, heavy concentration of women in unorganized sector, discrimination against women, impact of technology on women)
- (4) Social status (sex ratio, contemporary family structure, institution of marriage, caste, dowry, socialisation process)

UNIT V. Literacy and Education

Low-level of literacy - drop-outs and wastage
Inequalities in general and technical education

UNIT VI. Violence Against Women

Dowry, rape, commercialisation of women, the media's role,
indifference of the community and the state

UNIT VII. Political Participation

Low representation of women in decision-making bodies
Behavior pattern of women voters and its impact on politics
Women's organisations - classification of organisations
Impact - role as pressure groups

Reading

- Altekar. The Postion of Women in Hindu Civilization
Indra. The Status of Women in Ancient India
Chimnabai. The Position of Women in Medieval India
Mushia Bekha. Women in Mughal India
Agnew Vijaya. Elite Women in Indian Politics. New Delhi: Vikas
Publishing House, 1979.
Baig, Tara Ali. India's Women Power. New Delhi: S. Chand & Co.
1976.
Banaerjee, Nirmala, "Women Workers and Development," Social
Scientist, Indian School of Social Sciences, Trivandrum.
Vol. 6, no. 8, 1976.
Basu, Aparna, "The Role of Women in the Indian Struggle for
Freedom," in Indian Women from Purdah to Modernity, Nanda,
B.R. (ed.). Vikas Publishing House, Gaziabad, U.P. 1976.
Chattopadhyaya, Kamaladevi, "The Women's Movement Then and Now,"
in Indian Women, Jain, Devaki (ed.). New Delhi: Government
of India Publications Division, 1975.
Committee on the Status of Women. Towards Equality. New Delhi:
Government of India. Department of Social Welfare, Ministry
of Education and Social Welfare, 1974.
Desai, Neera and Patel, Vibhuti. Indian Women: Change and
Challenge in the International Decade, 1975-1985. Bombay,
Popular Prakashan.
Everett, Jana Matson. Women and Social Change in India. New
Delhi: Heritage Publisher. 1979.
Mazumdar, Vina, "The Social Reform Movement in India. From Ranade
to Nehru," in Indian Women from Purdah to Modernity, op.cit.
Nanda, B.R. Indian Women from Purdah to Modernity. op.cit.

Women and Law

The Faculty of Law, State University of Utrecht, The Netherlands, offers the following courses on "Women and Law."

1. International Law and Women. Equality of Women and Men in the European Community

The aim of this course in international law and women is to explore the possible contribution of international law to improving the status of women. International law regarding women covers many documents and organizations which cannot all be explored in this course. In EC countries, the law of the European Community has become an important vehicle of economic and social change. Therefore, we shall focus on the law of the European Community, where the principle of equality in relation to labour and social security has been developed in several directives and in the case law of the European Court of Justice. From time to time, the development of European Community law will be compared with that in other international settings and with national developments, to highlight the different ways in which the various types of international law can influence the position of women.

Readings: S. Prechal and N. Burrows, Gender Discrimination Law in the European Community. Dartmouth, 1990; plus a reader in Dutch, not here reproduced.

2. Criminal Sexuality, Criminal Violence?

This inter-disciplinary course offers an introduction to the problem of sexual violence and considers the role, possibilities and limits of law as a weapon in cases of sexual violence. (Readings, in Dutch, not here reproduced.)

3. Women and Law: Women and Work

The subject of this course is the relation between the public and private sphere in the field of work. How does law influence the labour market position of women? What is the meaning of national and international equal protection clauses against the background of the division of paid and unpaid work between men and women. Attention is paid to legislation, case law, and feminist legal theory. (Readings, in Dutch, not here reproduced.)

4. Equality as Principle

This course focuses on theories of equality and the impact of different approaches of equality on legal practice.

Women and Law

The Faculty of Law of the University of Leiden, The Netherlands, offers the following two courses on "Women and Law."

1. Feminist Theories of Legal Equality

The focus of this course is the feminist "equality debate" as it appears in the US and the Netherlands. Various conceptions of legal equality are being explored, especially the difference between a formal and substantive approach to equality. (Readings, in Dutch, not reproduced here.)

2. The Impact of International Law on Dutch Women in the Area of Family Law and Social Law

The course provides an overview of the influence of international law on the position of Dutch women in the area of family law and social law. As far as the first is concerned, article 8 of the European Convention of Human Rights has been invoked successfully by Dutch unwed or divorced fathers to strengthen their legal position regarding their children and thus regarding these children's mothers. In the area of social law, international law is invoked to challenge direct and indirect discrimination against women. International law appears to be a mixed blessing for Dutch women. (Readings, in Dutch, not reproduced here.)

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990.
Chevigny, "Police Deadly Force as Social Control: Jamaica, Argentina and Brazil," Criminal Law Forum, Vol. 1, 1990, p. 389.
Bonnie, "Coercive Psychiatry and Human Rights," Criminal Law Forum, Vol. 1, 1990, p. 319.
Berman and Clark, "State Terrorism: Disappearances," Rutgers Law Journal, Vol. 13, 1982, p. 531.
"Disappearances in Columbia and Peru," Human Rights Working Paper, Vol. 1, no 2, 1991.
Report of the Working Group on the Declaration on the Protection of all Persons from Enforced Disappearances, UN Doc. E/CN/1992/19/Rev. 1 (1992).

10. Domestic Violence

Readings

UN Publication. Violence Against Women in the Family. UN Sales No. E.89.IV.5 (1989).
Committee on the Elimination of Violence Against Women, General Recommendation No. 19, Violence against Women, UN Doc. CEDAW/C/1992/L.1/Add.15 (1992).

11. Capital Punishment

Readings

General Assembly Resolution 2857 (XXVI) (1971).
Safeguards guaranteeing protection of those facing the death penalty (1984).
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989).
Report of the Secretary General (1990).
Schabas, "Kindler and Ng: Our Supreme Magistrates Take a Frightening Step into the Court of Public Opinion," Revue du Barreau, Vol. 51, 1991, p. 673.
Hartman, "'Unusual' Punishment: The Domestic Effects of International Norms Restricting the Application of the Death Penalty," University of Cincinnati Law Review, Vol. 52, 1983, p. 655.
Lillich, "The Soering Case," American Journal of International Law, Vol. 85, 1991, p. 128.

12. Material on Policy Formation

Contribution from Vincent Del Buono, International Centre for Criminal Law Reform and Criminal Justice Policy, Vancouver.

5. Standard Minimum Rules for the Treatment of Prisoners

Readings

Rules, 1955.

Clark Draft on the Rules.

6. The Rights of Victims

Readings

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985.

Lamborn, "The United Nations Declaration on Victims:

Incorporating 'Abuse of Power'," Rutgers Law Journal, Vol. 19, 1987, p. 59.

Clark Draft

Criminal Injuries Compensation Act of 1971 (N.J.).

Crime Victim's Bill of Rights 1985 (N.J.)

7. Co-operation in the International Criminal Process

Readings

Model Treaties on Extradition and on Transfer of Prisoners.

Clark, "Crime: The UN Agenda on International Cooperation in the Criminal Process," Nova Law Review, Vol. 15, 1991, p. 475.

8. Crimes Under International Law

Readings

Draft Code of Offenses Against the Peace and Security of Mankind.

Clark, "Codification of the Principles of the Nuremberg Trial and the Subsequent Development of International Law," The Nuremberg Trial and International Law, G. Ginsburg and Kudriavtsev, V. (eds.). Dordrecht: Martinus Nijhoff, 1990.

Randall, Book Review, Criminal Law Forum, Vol. 1, 1990, p. 347.

Clark, "State Terrorism: Some Lessons from the Sinking of the Rainbow Warrior," Rutgers Law Journal, Vol. 20, 1989, p. 393.

9. The Promotion of the Highest Standards of Fairness, Humanity, Justice and Professional Conduct by the Police and other Professionals Involved in the Criminal Justice Process

Readings

Code of Conduct for Law Enforcement Officials, 1979.

Principles of Medical Ethics, 1982.

Guidelines on the Role of Prosecutors, 1990.

Declaration Against Torture, 1975.

Convention Against Torture, 1984.

Colloquium on the United Nations Crime Prevention and Criminal Justice Program

Course developed by Prof. Roger S. Clark, Rutgers Law School,
Camden, NJ, USA (Summer 1992)

1. Overview of the Program

Readings

The United Nations and Crime Prevention (1991) (booklet)
UN Charter: Preamble, Article 1, Articles 55 and 56, Chapter IX,
Chapter X
General Assembly Resolution 46/152
Clark, Roger S. The United Nations Crime and Criminal Justice
Program: Formulation of Standards and Efforts at Their
Implementation (hereinafter, Clark Draft), Chapters 1, 3.

2. The Parts of the UN System

The new Commission on Crime Prevention and Criminal Justice, the
former Committee, the Congresses, ECOSOC, the General Assembly,
the Crime Prevention and Criminal Justice Branch, the Institutes.

Readings

Clark Draft, Part III, "Formulation".
Clark, "The Eighth United Nations Congress," Criminal Law Forum,
Vol. 1, 1990, p. 513.
General Assembly Resolution 46/152.
Resolutions from first (1992) session of the Commission.

3. The Judicial Nature of the Instruments Under International and Domestic Law

Readings

Clark Draft on Formulation, Part I.
Lillich, Richard, "The United States Constitution and
International Human Rights Law," Harvard Human Rights
Journal, Vol. 3, 1990, p. 53.

4. Implementation: Theory and Practice

Readings

Clark Draft on Implementation.
Report of Meeting of Experts for the Evaluation of Implementation
of United Nations Norms and Guidelines in Crime Prevention
and Criminal Justice, UN Doc. E/CN/1992/4/Add.4, 1991.

Emergency Law

An undergraduate course, taught by Profs. Colm Campbell, Stephen Livingstone, and John Jackson, at the Faculty and School of Law, The Queen's University of Belfast, Northern Ireland, 1992.

Course Description: This course is about "Emergency" -- its definition, regulation and operation. It consists of an introductory and a concluding lecture and four parts taught in seminars. The focus is not simply on the Northern Ireland emergency, although a lot of Irish material will be made use of. What is crucial to the understanding of Emergency is the ability to synthesize the disparate elements of the course into a coherent unity. This means getting to grips with all the issues under discussion.

I. Introduction

General Background Reading:

International Commission of Jurists, States of Emergency; Their Impact on Human Rights (1983), pp. 411-438.
F. Kitson, Low Intensity Operations, Chap. 4.
Kircheimer, Political Justice, pp. 419-431.

Part 1. International Law on Emergencies

(a) International Human Rights Law

Required Reading:

J. Hartman, "Derogations from Human Rights Practices in Public Emergencies," Harvard International Law Journal. (1981), p. 1 ff.
The Paris Minimum Standards in States of Emergency
The Siracusa Principles

Optional:

Higgins, "Derogations Under Human Rights Treaties," (1976-77), British Yearbook of International Law, Vol. 48 (1976-77), p. 381 ff.
The Questiaux Report

(b) International Humanitarian Law

Required Reading:

F. Kalshoven, Restraints on the Waging of War (extracts)
The Turku/Abu Declaration
Extracts from the Geneva Conventions and Protocols I and II of 1977.

Optional:

H.P. Gasser, "Prohibition of Terrorist Acts in International Humanitarian Law," International Review of the Red Cross (1986)
H.P. Gasser, "A Measure of Humanity in International Disturbances and Tensions - A Proposal for a Code of Conduct" (1988)

Part 2. The Northern Ireland Emergency

Required Reading:

T. Hadden, K. Boyle & C. Campbell. "Emergency Law in Northern Ireland: The Context," in A. Jennings (ed.), Justice under Fire. (1988)

Helsinki Watch Report (extracts)

C. Campbell, Emergency Law in Ireland 1918-1925, (forthcoming with Oxford University Press) (extracts).

Optional:

D. Walsh, The Use and Abuse of Emergency Legislation in Northern Ireland (1983)

R. Harvey, "The Right of the People of the Whole of Ireland to Self-Determination, Unity, Sovereignty and Independence," New York Law School Journal of International and Comparative Law. Vol. 11.

Ireland v. UK, European Human Rights Reports, Vol. 2 (1978), p. 1 ff.

Part 3. Issues in Emergency Law

(a) Extradition

Required Reading:

Finucane v. McMahon, 1990 1 IR 165, at p. 200.

C. Campbell, "Extradition to Northern Ireland: Prospects and Problems," 52 MLR 585.

C. Van den Wijngaert, "The Political Offence Exception to Extradition: How to Plug the 'Terrorist's Loophole' Without Departing from Fundamental Human Rights," Israeli Yearbook of Human Rights, p. 297 ff.

Optional:

M. Cain, "Abrogating the Relative Political Offense Exception to Extradition: The United States-United Kingdom Supplementary Extradition Treaty," John Marshall Law Review, Vol. 20, p. 453 ff.

(b) The Role of Lawyers and Judges

Required Reading:

Alexander, "The Illusory Protection of Human Rights by National Courts During States of Emergency," Human Rights Law Journal, Vol. 5 (1984) p. 1-66

Chowdury, Emergency Powers and the Protection of the Individual, (1984), pp. 130- 42

International Lawyers Delegation, Legal Defence in Northern Ireland, (1989)

Dupont-Willemin, "Introduction," La Defense des Terroristes, (1991)

Optional:

- Suttner, "The Judiciary: Its Ideological Role in South Africa" International Journal of the Sociology of Law, Vol. 14, (1986), pp. 47-66
- Wacks, "Judges and Injustice," South African Law Journal, (1984), pp. 266 ff.
- Garro, "The Role of the Argentinian Judiciary in Controlling Governmental Action During a State of Siege," Human Rights Law Journal, Vol. 4 (1983), pp. 311-37.
- Trindade, "The Removal of Malaysia's Judges," Law Quarterly Review, Vol. 106 (1990), p. 51-86.
- Fruhling, "Stages of Repression and Legal Strategy for the Defence of Human Rights in Chile," Human Rights Quarterly (1983), pp. 510-33.
- Reifner, "The Bar in the Third Reich," McGill Law Journal, Vol. 32, (1986), pp. 96-125.
- Union of International Advocates, International Charter of Legal Defence Rights, (1983).
- Danckert, "Germany," in La Defense des Terroristes, (1991), pp. 52-61.

(c) Arrest, Detention and Internment

Required Reading:

- Hogan and Walker, Political Violence and the Law in Ireland, (1989), pp. 46-60.
- Spjut, "Internment in Northern Ireland 1971-75," (1986) 50 MLE 38
- Wilkinson, "British Policy on Terrorism: An Assessment," in Lodge (ed.), The Threat of Terrorism, (1988), pp. 29-56.
- Mathews, Freedom. State Security and the Rule of Law, (1986), pp. 62-100.
- Brogan and others v. United Kingdom, European Human Rights Review, Vol. 11, (1989) pp. 33 ff.

Optional Reading:

- Walsh, The Use and Abuse of Emergency Legislation in Northern Ireland, (1983), pp. 21-41.
- Livingstone, "A Week is a Long Time in Detention: Brogan v United Kingdom," (1989) 40 NILQ 288-303
- Rawlings, "Detention in Malaysia," (1983) 25 Malaya LR 324-50
- Bindman, South Africa: Human Rights and the Rule of Law (1989) pp. 66-84.
- Amnesty International, Disappearances: A Workbook (1981).

(d) Special Courts

Required Reading:

- Diplock Report, "Legal Procedures to deal with terrorist activities in Northern Ireland" (1972) Cm 5185.
- "Criminal Justice and Human Rights in Northern Ireland," A Report to the Association of the Bar of the City of New York, (1988).
- Hogan and Walker, "The Special Criminal Court," chapter 10 in Political violence and the Law in Ireland (1989).

Optional Reading:

- Campbell, Emergency Law in Ireland 1918-25, pp. 63-115, 231-272
(forthcoming, Oxford University Press).
- Robinson, The Special Criminal Court (1974)
- Robinson, The Special Criminal Court: 10 Years On" (1980)
- Walsh, "The Use and Abuse of Emergency Legislation in Northern
Ireland" (1983)
- Boyle, Hadden & Hillyard, Ten Years on in Northern Ireland
(1986), chapt. 6.
- Bonner, "Combating Terrorism and Supergrass Trials in Northern
Ireland" (1988) 51 MLR 23-53
- S. Greer, "Supergrasses and the Legal System in Northern Ireland"
Law Quarterly Review, Vol. 182, (1986) pp. 198-249

Case Studies

(a) Argentina and Chile

Background to Both Jurisdictions:

- International Commission of Jurists, Military Regimes in Latin
America.
- Baker, "The South American Legal Response to Terrorism," Boston
University International Law Journal, Vol. 3 (1985), pp. 69-
97.

Argentina:

- Garro, "The Role of the Argentinian Judiciary in Controlling
Governmental Action under a State of Siege," Human Rights
Law Journal, Vol. 4 (1983) pp. 311-37.
- Snyder, "The State of Siege and the Rule of Law in Argentina,"
Lawyer of the Americas, Vol. 15 (1984), pp. 503-20.
- Mignone, Estlund and Issachoroff, "Dictatorship on Trial:
Prosecution of Human Rights Violations in Argentina," Yale
Journal of International Law, Vol. 10 (1984), pp. 118-48.
- Amnesty International, The Junta Trials (1988).

Chile:

- Bar Association of New York, Human Rights and the Administration
of Justice in Chile, (1986).
- Americas Watch, Human Rights and the Plebiscite in Chile, (1988).
- Fruhling, "Stages of Repression and Legal Strategy for the
Defence of Human Rights in Chile 1973-80," Human Rights
Quarterly, Vol. 5, (1983), pp. 510-33.
- Sanders, Military Government in Chile in The Politics of Anti
Politics, (1978), pp. 270-288.

(b) Germany in the 1970s and South Africa

West Germany

- P. Weiss, "Terror and Counter-Terror in the Federal Republic"
New York University International Law and Politics Review,
Vol. 9, (1976), pp. 61-88.
- Ensslin, Daader and Raspe v Federal Republic of Germany (1978) 11
EHCR 418.

- E. Kolinsky, "Terrorism in W. Germany" (1988) in J. Lodge, The Threat of Terrorism (1988), pp.57-88
- H. Horchem, "Terrorism in Germany" in Wilinon and Stewart, Contemporary Research in Terrorism (1987), pp. 141-63.
- R. Clutterbuck, "Technology and Civil Liberties" in Counter-Terrorism in Europe: Implications of 1992 (1991).

South Africa:

- G. Bindman, South Africa: Human Rights and the Rule of Law (1988), International Commission of Jurists
- A. Matthews, Freedom, State Security and the Rule of Law (1988), chapters. 12 and 13
- M.G. Cowling, "Judges and the Protection of Human Rights in South Africa: Articulating and the Inarticulate Premise," South African Journal of Human Rights, (1988), pp. 197-201.
- D. Davis et al, "Detention, Evidence and the Criminal Justice Process in South Africa" International Journal of the Sociology of Law, Vol. 15, (1987), pp. 105 ff.
- D. Dyzenhaus, "The Disappearance of Law?" South African Law Journal, (1990), pp. 227-250.

(c) West Bank and Malaysia

West Bank:

- F. Newman and D. Weissdrodt, International Human Rights pp. 689-720.
- M. Halberstan, "Self-determination in the Arab-Israeli Conflict: Meaning, Myth, and Politics," New York University Journal of International Law and Politics, Vol. 21, p. 465 [a pro-israeli piece]
- J. Quigley, "David v Goliath: Humanitarian and Human Rights Law in Light of the Palestinian Right of Self-determination and Right to recapture Territory taken by Force," New York University Journal of International Law and Politics, Vol. 21, p. 489 [a pro-palestinian piece]

Malaysia

- The Queen's University of Belfast Database Malaysia cover sheet
- Government White Paper on the ISA Arrests in Malaysia
- US State Department's Annual Report on Human Rights Practices for 1990 regarding Malaysia.
- A. Khalid, "The Internal Security Act - An Overview," lecture delivered in Kuala Lumpur, 10th December 1988.
- The Report of the International Mission of Lawyers to Malaysia (extracts).

Concluding Session

General Bibliography

- R. Clutterbuck, Guerrillas and Terrorists
P. Wilinon, Terrorism and the Liberal State
D. Bonner, Emergency Powers in Peacetime (1985)
K. Boyle, T. Hadden and P. Hillyard, Ten Years on in Northern Ireland (1980)
G. Hogan and C. Walker, Political Violence and the Law in Ireland (1989).
C. Guevera, Guerrilla Warfare
Warbrick, 'Terrorism and the European Convention on Human Rights' (1983) 31 ICLQ 82.
K. Suter, An International Law of Guerrilla Warfare (1984)
C. Townshend, Political Violence in Ireland (1983).
S. Greer, 'Military Intervention in Civil Disturbance, the Legal Basis Reconsidered,' (1983) Public Law 573.
R. Eveleigh, Peace-keeping in a Democratic Society: The Lessons of Northern Ireland.

Note: The University of Belfast offers a course in "Emergency Law" at the post-graduate LLM level, which has a much more extensive bibliography.

