

INTERNATIONAL HUMAN RIGHTS LAW

Spring Term, 2010
Law School Building, Room 100
Hamline University School of Law
Professor Katrina Pagonis

SYLLABUS

Welcome to *International Human Rights Law*! In the aftermath of World War II and the Holocaust, the international community began to recognize individual *responsibility* for crimes against humanity under international law along with internationally protected human *rights*. This course offers a comprehensive overview of the history and content of modern international human rights law. Our objective is to examine the increasingly complex body of substantive law and practice relating to the protection and promotion of human rights and fundamental freedoms in international law and institutions.

We will cover the major multilateral human rights instruments, rules and systems (both U.N. and regional). This course is flexible enough to address relevant current events and areas of particular interest to the class; if there is a topic you are keen to address, please e-mail me early on. We will address civil and political rights; economic, social, and cultural rights (including the right to health); the rights of “vulnerable groups” (e.g., racial and ethnic minorities, religious minorities, women, children, indigenous populations, the disabled); the links between human rights, foreign policy, trade, and development; and the enforcement of human rights norms through domestic law (such as under the U.S. Alien Tort Statute). Along the way, we will examine issues related to impunity and immunities, international humanitarian law, genocide, and international criminal tribunals. We will also look at some of the “working texts” recently adopted in various international fora concerned with human rights (such as instruments to prevent and punish “forced disappearances” and to protect the human rights of persons with disabilities). Even though this is an “introductory,” survey-type course, the intent is to address such issues at a fairly advanced level of analysis.

Learning Outcomes. Upon completion of this course, you should be able to:

- Demonstrate knowledge of the structure, components, and functioning of international (U.N.-based) and regional human rights systems;
- Comprehend and synthesize the reasoning and rules contained in international legal instruments and apply them to a range of country situations;
- Demonstrate an understanding of the operation of law in a global context and the relationships between U.S. law and international human rights law;

- Identify and apply strategies to promote the realization of human rights;
- Master appropriate strategies and technologies to retrieve, use, and manage international and regional legal research materials effectively and efficiently;
- Communicate effectively in writing and in speaking with culturally and professionally diverse audiences on issues in international human rights law;
- Understand the competing ideas of universalism and cultural relativism in human rights and demonstrate the capacity to understand and appreciate the diverse backgrounds and perspectives of various states and groups; and
- Articulate the roles lawyers play (alongside non-lawyers) in promoting internationally-recognized human rights.

Prerequisites. There are no prerequisites to this course. Completion of or concurrent enrollment in International Law and Constitutional Law I & II is helpful, but I will assume no prior knowledge in these subjects.

I. LOGISTICS

- A. **Time and Place.** This three-credit course will meet twice a week on **Mondays and Wednesdays**, from **10:00-11:15 a.m.** in **Room 100** of the law school building.
- B. **Textbook and Readings.** The syllabus contains a list of readings for each class meeting.
- **Required Textbook.** The required text is Henry J. Steiner, Philip Alston, and Ryan Goodman, eds., *International Human Rights in Context: Law, Politics, Morals* (3d ed., 2008).
 - **Recommended Nutshell.** It is highly recommended that you obtain the nutshell for this course: Thomas Buergenthal, Dinah Shelton, and David P. Stewart, *International Human Rights in a Nutshell* (4th ed. 2009). Recommended Nutshell readings are included in the syllabus.
 - **International Instruments.** I will also be assigning readings from various international instruments. These are reprinted (in excerpted form) in the Documentary Supplement to our text, available free of charge at www.oxfordtextbooks.co.uk/orc/ihr3e/. Alternatively, you can find full, official versions of many of the treaties online – the University of Minnesota has a helpful online human rights library (<http://www1.umn.edu/humanrts>) and the Office of the UN High Commissioner for Human Rights has the relevant UN-level documents available on its website along with links to the ratification status of each treaty and links to the various human rights bodies (<http://www2.ohchr.org/english/law/index.htm>). Many of the international instruments we will explore are reprinted

in 25+ *Human Rights Documents*; purchasing the hard copy is not required, but you may find this book is handy for quick reference and note taking.

- ***Supplemental Readings.*** Readings from the textbook will be occasionally supplemented with selected cases and articles, as indicated on the syllabus. *You are responsible for finding publicly available documents (e.g., decisions or reports of international bodies) online.* I will post any assigned articles on the class TWEN site.
- ***Required Clicker.*** A TurningPoint clicker is required for this course. The clicker will be used to take attendance AND to make the class discussion more interactive while increasing your substantive knowledge and retention of the material. New or used clickers may be obtained at the SBA Bookstore or online. Please register your clicker at <http://student.turningtechnologies.com/>. **Attendance and other clicking begins the very first class. Please be ready!**

- C. **TWEN Site.** Course documents, updates, and supplemental readings will be posted on the class TWEN site. I will be posting updated syllabi over the course of the semester, and *it is your responsibility to check TWEN for updated reading assignments.*

II. COURSE REQUIREMENTS & POLICIES

A. **Attendance**

At the beginning of each class, I will take attendance via clicker. If you are not present when I take attendance, your tardiness will count as an absence (except if you e-mail me prior to class regarding your anticipated tardiness and I agree to count you as having been present). *If you are absent for more than three classes, your absences will be treated as “excessive”* in accordance with Hamline University Academic Rule 1-110 unless you obtain approval from me in advance.

B. **Participation**

Generally. This course requires active and energetic student participation. Classes will be most productive when everyone completes the assigned readings carefully and comes prepared to engage in thoughtful discussion of the substantive issues. I reserve the right to adjust your final grade by one step (e.g., from a B+ to an A- or vice versa) based on your classroom contributions. Class participation will be assessed on a qualitative rather than quantitative basis.

“On Call” Days. Each student is required to be “on call” for three lectures over the course of the semester (5 to 6 students will be on call each day). I will need 5 or 6 volunteers to be on call the first day, so ***if you would like to be on call on the first day of class, please e-mail me*** (a

couple of advantages to volunteering – I will look upon your initiative in a positive way, and the questions will be lighter in our first class). For the remaining classes, I will post a sign up sheet (with topics) on my door during the first week of class. *If you fail to be “on call” for three classes, your lack of participation will drop your grade one gradation.* And, as a reminder, you are always expected to be prepared for intense and thoughtful discussion of the readings, regardless of whether or not you are on call that day.

C. **Assignments**

Reading Assignments. This syllabus will be updated to reflect the reading assignments. Please refer to TWEN periodically for the most up-to-date copy of the syllabus.

Short Assignments. I will occasionally assign short research projects, group activities, or other assignments. Completion of all assignments is required to obtain a passing grade in the course.

Short Memorandum. At the beginning of the semester, I will distribute a list of potential topics for your short memo. You will choose your topic during the third week of class, and the final memos will be due a little past the midpoint of the semester. These are genuinely short memos (maximum 7 pages), but a quality memorandum in this class may prove invaluable as a writing sample later on. Your short memorandum will count as 25% of your final grade.

D. **Final Examination**

The final examination will be a comprehensive, self-scheduled, 3-hour, open book / open note test.

E. **Technology Policy**

Students are expected to use technology in a professional and productive manner. The use of technological devices (e.g., laptops and mobile phones) in a manner that does not further our learning objectives is strictly prohibited. **If a student uses technology in a way that distracts others, he or she may have his grade lowered by one-half of a letter; if the student does so again, he or she may be asked to drop the course without receiving academic credit for the class.**

III. COURSE EVALUATION

The grade for the course will be based on your fulfillment of the course requirements, allocated as follows:

- 25% will be based on your *short memorandum*; and
- 75% will be based on your *final exam*.

Your course grade may be adjusted one-half of a letter (up or down) based on class preparedness in accordance with Hamline University Academic

Rules 1-107C5 and 1-110. More specifically, I reserve the right to: (1) raise your course grade by one-half of a letter if you participate substantially when not called on or distinguish yourself when called on; or (2) lower your course grade by one-half of a letter if you are not prepared when called on. Your active participation in small group exercises will be assessed as part of your class preparedness.

IV. INSTRUCTOR AVAILABILITY

I want to be fully available to help whenever you need assistance with the content and readings in the class.

I will hold *office hours during the hour following each class*. I am also available to meet with students by appointment.

Office: 233 East

Telephone: 651/523-2843 (office); 612/293-5724 (GoogleVoice)
[leave any voicemails on my GoogleVoice number]

E-Mail: kpagonis01@hamline.edu

V. FINAL THOUGHTS

I am fascinated by the subject matter of this course and hope you will share my enthusiasm for the intellectually challenging ideas presented in the readings and the class work. I look forward to getting to know you and to our many thoughtful discussions. If I can ever be of assistance, please come by and see me at any mutually convenient time.

COURSE SCHEDULE

The following course schedule sets forth the readings for our first four weeks of class. As the semester progresses, I will distribute (via TWEN) assignments for our remaining class sessions.

January 20

Overview of Course and Introduction to International Human Rights Law

Overview of the course; discussion of syllabus; grading and class preparation requirements. General introduction to international human rights law.

Reading

- Syllabus
- Steiner 1-17
- Universal Declaration of Human Rights

Assignment

- Find a news story that you feel addresses an issue in international human rights law and post it to TWEN *before the beginning of class*. Be prepared to discuss your article in class.
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January 25

Human Rights Issues in National Courts: The Death Penalty

Question: Is there a human right not to be executed?

Reading

- Steiner 17-57
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January 27

History of Human Rights Law: Customary International Law

Questions: Are human rights rooted in “natural law”? To what extent do widely ratified treaties bind other countries as customary international law? What is the difference between customary international law and *jus cogens*?

Reading

- Steiner 58-85
- Nutshell 1-28
- International Covenant on Civil and Political Rights, articles 2 and 20
- International Covenant on Economic Social and Cultural Rights, articles 2 and 12

Assignment

- Find out how many countries have ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights. Has the United States ratified these treaties?
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February 1

History of Human Rights Law: The Universal Declaration of Human Rights

Question: What are the legal antecedents to modern international human rights law? What is the legal status of the Universal Declaration of Human Rights?

Reading

- Steiner *skim* 96-105, *read* 105-148
- Nutshell 29-46

- Universal Declaration of Human Rights (review)
 - U.N. Charter: preamble, articles 1, 2, 55, 56
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February 3

International Covenant on Civil and Political Rights (ICCPR)

Questions: What rights are protected by the ICCPR? What are the obligations of states that have ratified the ICCPR? What is derogation? Which rights are non-derogable?

Reading

- Steiner 151-174
 - ICCPR, preamble through article 27
 - Nutshell 46-52
 - UDHR: compare arts. 1-21 with ICCPR
 - United States Constitution: compare individual rights under the U.S. Constitution (e.g., First Amendment) with the civil and political rights contained in the ICCPR
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February 8

Reservations, Understandings, and Declarations to the ICCPR

Questions: What are RUDs and what legal effect do they have in the context of a multilateral treaty? Why did the United States only ratify the ICCPR with RUDs?

Reading

- Steiner 1124-25, 1130-55
 - Vienna Convention on the Law of Treaties, arts. 2(1)(d), 19-23
 - Nutshell 416-444
 - The United States' RUDs to the ICCPR (find on the UN Treaty Database)
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February 10

The Prohibition Against Torture

Questions: Has the prohibition on torture risen to the level of *jus cogens*? Given the torture debates of the past five or so years, has the centrality of the international prohibition on torture been eroded in a legally significant way?

Reading

- Steiner 224-262
- Convention Against Torture (skim)
- The United States' RUDs to the Convention Against Torture (find on the UN Treaty Database)
- Nutshell 99-104