

Draft: June 27, 2013

Survey of International Human Rights Law COURSE DESCRIPTION AND SYLLABUS

Fall 2013

COURSE DESCRIPTION

This course is a survey course in international human rights law and the objective of the course is to introduce the student to the basic principles of international human rights and the institutions that operate in this area of the law.

The course was developed by FSU law professor Talbot D'Alemberte and Dr. Mark Ellis, a lawyer and economist, who is the Executive Director of the International Bar Association. It was taught for the first time in Fall 2011.

Teaching assistants. Support for this course is provided by Ms. Lynn Peacock, 850-644-1441, lpeacock@fsu.edu (Skype: lynn.peacock56) and two teaching assistants, Brandon Smoot, e-mail: brs11@my.fsu.edu (Skype: Brandon.Smoot.14) and Lora Minicucci, e-mail: lm11j@my.fsu.edu (Skype: l_minicucci)

Course Material. Although there are some suggested readings (see below), most of the course material will be available on line. Much of the material has been adapted from work done by the International Bar Association ("IBA") and the College of Law of England and Wales. This material, in turn, was partially adapted from a project of the IBA and the UN High Commissioner of Human Rights. This semester, the majority of the lectures will be delivered through videotaped lectures.

IBA Students. Through the Law Student Committee of the IBA, Mark Ellis will select law students from other countries to participate in the exercises and this semester, we hope that students from non-U.S. law schools will join us. Last semester, a class from a Lebanese law school participated through teleconferencing and it worked very well.

Students will meet for two hours each week. Students will meet for two hours each week, either at **5 p.m.** on Tuesday evenings or 9 a.m. on Wednesday mornings, The class is set at two different times with the hope that this will allow law students from other time zones to participate.

The classes will focus on discussion and student presentations. The lectures will be videotaped and assigned for review before the scheduled classes.

Assessments and quizzes. The course will feature regular assessments and quizzes and some exercises. It is important that students keep up with the course.

Current events. A great deal can be learned from the news of public events relating to international human rights. Be sure to find reliable news sources and share any news of special interest by posting on the Blackboard site on “Current Events.”

Grading. Grading will be based on performance on the quizzes and exercises and class participation, including postings of assignments and current events. For those who are taking the course for credit, grading for this semester will include: Class participation including exercises = 30%; midterm = 30%; final exam = 40%. For students who are enrolled only for the IBA certificate, the evaluation will be based on class participation.

Certificates and credit. All students successfully completing the course will receive a certificate from the International Bar Association and those who enroll for credit will receive three hours academic credit from Florida State University.

Computer access essential. All students participating in the course will need access to a computer and an account with Skype, available free from Skype. Students are urged to bring computers to the class with the understanding that they are to be used only for note taking and course-related research.

RECOMMENDED PRELIMINARY READING

Students will get much more out of the course if they have some knowledge of the development of human rights law. Reading from this list before classes start is recommended.

Books suggested by Talbot D'Alemberte: (Note: The first two are strongly recommended.)

Geoffrey Robinson: *Crimes Against Humanity*
Samantha Power: *Genocide; America's Problem from Hell*
Mary Ann Glendon: *A World Made New*
Adam Hochschild: *Bury the Chains and King Leopold's Ghost*
Aryeh Neier: *The International Human Rights Movement*
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Books recommended by Dr. Mark Ellis:

THE PURSUIT OF INTERNATIONAL CRIMINAL JUSTICE: A WORLD STUDY ON CONFLICTS, VICTIMIZATION, AND POST-CONFLICT JUSTICE (M. Cherif Bassiouni ed., Intersentia 2010).

BRUCE BROOMHALL, INTERNATIONAL JUSTICE AND THE INTERNATIONAL CRIMINAL COURT: BETWEEN SOVEREIGNTY AND THE RULE OF LAW (Oxford University Press 2004).

HUGHES, E., ET AL., ATROCITIES AND INTERNATIONAL ACCOUNTABILITY, (United Nations Press: Tokyo 2007).

BRIAN D. LEPARD, CUSTOMARY INTERNATIONAL LAW: A NEW THEORY WITH PRACTICAL APPLICATIONS (Cambridge University Press 2010).

UNIVERSAL JURISDICTION: NATIONAL COURTS AND THE PROSECUTION OF SERIOUS CRIMES UNDER INTERNATIONAL LAW (S. Macedo (ed.), Philadelphia: University of Pennsylvania Press, 2004).

LUC REYDAMS, UNIVERSAL JURISDICTION: INTERNATIONAL AND MUNICIPAL LEGAL PERSPECTIVES (Oxford University Press 2003).

ROUTLEDGE HANDBOOK OF INTERNATIONAL CRIMINAL LAW (William A. Schabas, Nadia Bernaz eds. Routledge 2010.)

Phillipe Sands, *After Pinochet: The Role of National Courts, in FROM NUREMBERG TO THE HAGUE: THE FUTURE OF INTERNATIONAL CRIMINAL JUSTICE* (Phillipe Sands ed., Cambridge University Press 2003).

WOMEN IN AN INSECURE WORLD: VIOLENCE AGAINST WOMEN - FACTS,
FIGURES AND ANALYSIS (Marie Vlachová & Lea BIASON eds., DCAF 2005).

SYLLABUS

General:

The Blackboard site will provide you with greater detail and with the assignments for each of these topics. That site will also provide you with video lectures and other material.

You will find a collection of resource material on Blackboard.

Note that there are exercises provided and you will get more detailed instructions on these exercises as we get to them.

Students will be expected to complete the assignments before meeting with the class for two hours on *either* of two days (Tuesday at 5 p.m -6:50. or Wednesday 9 – 10:50 a.m.) and it is important that you not get behind in your readings, your postings or the assigned exercises.

Weekly Topics:

Note that there are assignments for the first class session. Other assignments from the syllabus will be made each week. Unless stated otherwise, all assignments are due no later than noon (EST) each Monday.

This syllabus contains some subjects that will not be taught this semester in order that we will have adequate time to address the subjects that are taught. We expect to fully treat topics 1 – 4 and 11 – 16, probably devoted more than one class to some of those subjects.

Before Class Starts:

1. Review welcome videos including explanation of technology.
2. Review the Syllabus.

3. Post on Discussions tab a brief introduction giving a brief biography and a statement of your interest in international human rights law. Please include a picture, if possible.
4. After reviewing the History Time Line, add one or more items and/or edit on already posted items. **BE CERTAIN TO ADD YOUR NAME IN BOLD CAPS AT THE END OF YOUR ENTRY.** You can continue to make entries in this time line until the mid-term exam.
5. Provide Lynn Peacock (lpeacock@fsu.edu) with your email address and your Skype address. If you have not signed up for Skype, do so right away. It is free and it will provide you with an alternative way to communicate with your fellow students and the teaching assistants.
6. **IMPORTANT:** When you are assigned to work with other students, make immediate contact with the student(s) with whom you have been paired. If you have difficulty, let teaching assistants and Lynn Peacock know so that they can help facilitate. Do not put off this contact because it may take some time for students in other time zones to respond.

Topic One: Introduction. History of international human rights law. Research of international human rights.

Objectives: In this segment, we want students to review their knowledge of history and the development of international human rights law and appreciate how international human rights law fits with traditional international law. Of particular importance to the development of international human rights law is the history of World War II. This segment also has a lecture that will prepare students for research into international human rights topics.

ASSIGNMENT:

- 1) For the first class, log on Blackboard and under the History Time Line tab, make one or more contributions to the history time line that is to be constructed by the whole class. **(Due by noon (EST) on Monday, August 26th before the first class meetings on Tuesday evening and Wednesday morning.)** **NOTE: Be sure to end your entry, whether original or the edit of an earlier entry, with your name and date of entry. Otherwise, we will not know that the entry was yours. Please feel free to put your name in bold capital letters.**

- 2) Carefully read the Universal Declaration of Human Rights (Resources tab).
- 3) View the short videos of Eleanor Roosevelt and Mary Robinson (Course Materials tab; Topic One). Why do you think that the Universal Declaration was put forward as a declaration rather than as a treaty?
- 4) Review material by Law Librarian Margaret Clark (International Human Rights Research Guide under Resources tab).
- 5) Watch lecture by Professor D'Alemberte. Take notes.

Note: The scheduling of the other topics will be provided each week to allow Mark Ellis and the lecturers to teach their units as their schedules permit. Also, we may not cover all these topics and some may be combined with others.

Topic Two: A General Introduction.. International Human Rights Law. International law, international human rights law and humanitarian law.

Objectives: After examining the structure of the UN, this segment will look at the development of the UN's role in developing international human rights and particularly on the 1948 adoption of the Universal Declaration of Human Rights, a document that has formed the basis for much that has followed. We will touch on the role of the legal profession.

ASSIGNMENT:

- 1) Read Unit One of the materials and be prepared to discuss.
- 2) Consider posting a current event relating to the role of lawyers in international human rights law and read postings by others.
- 3) Watch lecture by Professor D'Alemberte. Take notes.
- 4) Watch lecture on the Universal Declaration of Human Rights by Professor Summer (Barney) Twiss (Video Library tab).

- 5) Review the Constitution of your own nation. Post an analysis on the Discussion Board addressing these questions: What rights embodied in the Universal Declaration are not in that Constitution? Are there rights in your nation's constitution that are not in the Universal Declaration? Describe.

Topic Three:

The Major UN Human Rights Instruments, the Geneva Conventions and the Mechanisms for Their Implementation.

Objectives: Since the development of major principles governing international human rights law have been developed through UN treaties and the Geneva conventions, it is important to know these treaties. Following this session, students should be familiar with the treaties and the mechanisms for their enforcement.

ASSIGNMENT:

- 1) Read Unit Two of the materials and be prepared to discuss.
- 2) For each of the UN human rights treaties, go to the UN web site and review the recent activity of the "treaty body" where one exists.
- 3) Consider posting current event relating to UN human rights treaty or action by a UN treaty body and read postings by others. The Discussion Board has a site for posting current events.
- 4) Working with the team assigned, post an analysis of the UN treaty or Geneva Convention assigned to your group.
- 5) Watch lecture by Professor D'Alemberte. Take notes.

Topic Four: The Major Regional Human Rights Instruments and the Mechanisms for Their Implementation.

Objectives: The regional human rights treaties have been particularly important in the development of international human rights law because there are functioning international court systems that are adjudicating cases. You should finish this section with some knowledge of the significant cases decided by the regional courts.

Note: This topic is important and it may take up more than one week of class discussion and student presentation.

ASSIGNMENT:

- 1) Read Unit Three of the materials and be prepared to discuss.
- 2) Watch lecture on European Court of Human Rights by Professor Vitaly Kulapov (Video Library tab).
- 3) Visit the web sites for the regional human rights courts.
- 4) Watch lecture by Professor D'Alemberte. Take notes.
- 5) Each student: Find a case decided by a regional human rights court and post a short brief of the case on Blackboard.

Topic Five: The *Pinochet* case and universal jurisdiction.

Objectives: Consider the history of universal jurisdiction. Learn the facts and the holdings in the *Pinochet* case including the treatment in Spanish, British and Chilean courts. Learn the extent to which principles of universal jurisdiction are built into the structure of international criminal courts.

ASSIGNMENTS:

- 1) Watch lecture by Mark Ellis.

- 2) Working with assigned team, post essay on assigned topic relating to the *Pinochet* case or universal jurisdiction.
- 3) Prepare yourself to speak to recent developments in the application of universal declaration.

Topic Six:

Accountability through domestic courts, truth commissions and through ad hoc and permanent international criminal courts.

Objectives: This segment will look at methods to assure accountability including truth commissions and domestic criminal proceedings that treat violations of international human rights principles. You should be equipped to assess the alternatives for accountability. It will then examine the international criminal tribunals. Beginning with the Nuremberg and Tokyo tribunals following WW II, the prosecution of those involved in human rights abuses has been undertaken by the international community. This segment should acquaint you with the structure and jurisdiction of international criminal courts and at least a sampling of the cases decided by those courts.

ASSIGNMENT:

- 1) Watch lecture by Mark Ellis.
- 2) Read assigned special materials and be prepared to discuss.
- 3) Go to web sites for international criminal courts (ICC, ICTY, ICTR, SCSL, Cambodian court) and post a short brief on a case from one of those courts.
- 4) Working with a classmate you select, analyze the indictment in a case brought before an international criminal court. One of you take on the role of the defense counsel and one the role of a prosecutor. Be prepared to discuss what testimony you would put on through the defendant (defense counsel) and the outline of the cross exam of that defendant (prosecutor). You may use cases going back to Nuremberg and Tokyo. Do your exercise before you consult the transcript of the trial.

- 5) Consider posting current event relating to international criminal courts and read postings by others.

Topic Seven: Human Trafficking.

Objectives: You should learn the facts about modern human trafficking and the laws that deal with the problem, including the interface of immigration law and criminal law.

ASSIGNMENTS:

- 1) Watch lecture by Professor Terry Coonan on human trafficking. He will provide reading assignments.
- 2) Post current event relating to human trafficking and read postings by others.

Topic Eight: Human Rights and the “War on Terror.”

Objectives: To review the U.S. response to the 9/11 2001 attack on the U.S. We should review the legislation passed by Congress following the attacks, examine the major U.S. cases and, particularly, look at the conduct of executive branch officials and military personnel. The emphasis in this session will be on the U.S. but we should also touch on the U.K.

ASSIGNMENTS:

- 1) Watch lecture by Prof. D’Alemberte. Take Notes.
- 2) Read memoranda from DOJ and DOD and White House on Treatment of Detainees.
- 3) Review U.S. cases relating to habeas suit by detainees.
- 4) Review the U.S. legislation that authorizes the use of force following 9/11.
- 5) Read the findings and recommendations by Task Force on treatment of

detainees of the Constitution Project. <http://detaineeetaskforce.org>

- 6) If released, read a summary of the U.S. Senate findings on treatment of detainees.
- 7) Brief a case relating to detainees: U. S. or U.K.

Topic Nine: Accountability for violations of human rights through civil damage actions.

Objectives: One strategy to achieve accountability has been through cases brought for civil damages. We will examine these cases and determine whether this has been a successful tactic to achieve accountability and whether this avenue is now available following recent decisions.

ASSIGNMENTS:

- 1) Watch lectures by Prof. D'Alemberte and Robert Kerrigan . Take notes.
- 2) Read *Filartiga v. Pena-Irala*, 630 F. 2d 876 (2d Cir. 1980).
- 3) Read the U.S. Alien Tort Claims Act.
- 4) Read the U.S. Torture Victims Protection Act.
- 5) Read *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. ____ (2013).
- 6) Review news articles on the 2012 UK payment to victims of torture.
- 7) Find a case brought in the United States or the UK in which damages are sought in order to achieve accountability for human rights abuses. Post short brief on Blackboard. Be sure to identify the theory on which jurisdiction is claimed for the action, describe the government activity that led to the claim and state the amount of the recovery, if any.

Topic Ten: The International Court of Justice and its role in human rights issues.

Objectives: We will study the World Court, established by the UN Charter. It is designed to adjudicate disputes between nations that cannot be resolved through international arbitration. Although it does not have a distinct jurisdiction relating to international human rights, it frequently has adjudicated matters of importance to these rights. We will learn how the Court is established and something of its case decision in the area of human rights.

ASSIGNMENTS:

- 1) Go to the World Court web site and read the history and the description of the Court's operation.
- 2) Read the Court's opinions in *Nicaragua v. U.S.* and the three cases that have dealt with Article 36 of the Vienna Convention on Consular Relations (Uruguay, Germany and Mexico). What is the relationship today between the U.S. and the World Court? The lecture will cover these cases but you will need the background in order to follow the lecture.
- 3) Working with assigned teammates, post a brief on a ICJ case that deals with an international human rights law issue.

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ADDITIONAL TOPICS: We will not take up the following topics but the material may be referenced for other segments.

Topic: The Protection and Redress for Victims of Human Rights Violations.
(**Note: We will not address this as a separate topic this semester.**)

ASSIGNMENT:

- 1) Read Unit Four of the materials and be prepared to discuss.
- 2) Post a brief on a case decided by an international court since 2005 that deals with redress for victims of human rights abuses.

Topic: Independence and Impartiality of Judge, Prosecutors and Lawyers.
(**Note: We will not address this as a separate topic this semester.**)

ASSIGNMENT:

- 1) Read Unit Five of the materials and be prepared to discuss.
- 2) Post current event relating to international human rights law and read postings by others.
- 3) Post a brief on a case decided after 2005 dealing with independence and impartiality of judges. This can be from a domestic court, international court or UN treaty body.

Topic: Human Rights and Arrest: Pre-Trial Detention and Administrative Detention. (**Note: We will not address this as a separate topic this semester.**)

ASSIGNMENT:

- 1) Read Unit Six of the materials and be prepared to discuss.
- 2) Post current event relating to arrest, detention under international human rights law and read postings by others.

Topic: The Right to a Fair Trial: Part 1—From Investigation to Trial.
(**Note: We will not address this as a separate topic this semester.**)

ASSIGNMENT:

- 1) Read Unit Seven of the materials and be prepared to discuss.
- 2) Post a brief on a past 2005 case relating to this subject
- 3) Post current event relating to international human rights law and read postings by others.

Topic: The Right to a Fair Trial: Part II – From Trial to Final Judgment.
(**Note: We will not address this as a separate topic this semester.**)

ASSIGNMENT:

- 1) Read Unit Eight of the materials and be prepared to discuss.
- 2) Post a brief on a past 2005 case relating to this subject.
- 3) Post current event relating to international human rights law and read postings by others.

Topic:

- A. International Legal Standards for the Protection of Persons Deprived of Their Liberty.
- B. The Use of Non-Custodial Measures in the Administration of Justice.
- C. Protections and Redress for Victims of Crime.

(**Note: We will not take up this as a separate topic this semester.**)

ASSIGNMENT:

- 1) Read Units Nine, Ten and Eleven of the materials and be prepared to discuss.
- 2) Post a brief on a 2005 or later case involving one of the three topics in which international law is discussed. For this purpose, decision by UN treaty bodies will qualify as “cases”.