

Course Outline

COURSE: LAWS 4604A – International Protection of Human Rights
PREREQUISITES: LAWS 2105, LAWS 3503, LAWS 33503 [1.0] (no longer offered), LAWS 3509, LAWS 3603 [1.0] (no longer offered)
TERM: Fall/Winter 2007- 08
CLASS: Day & Time: Monday, 11:30 a.m. – 2:25 p.m.
Room: 316 SA (Southam Hall)
INSTRUCTOR: Professor R. Rueban Balasubramaniam
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Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 9, 2007 for December examinations. With regard to accommodations for religious obligations and pregnancy, please see <http://www.carleton.ca/law/accommodations.htm>.

Course Description: The genesis for the protection of international human rights is the desire to secure moral constraints on state power as integral to a commitment to the rule of law. But after the terrorist attacks on the Twin Towers on September 11th, 2001, some argue that rule-of-law abiding governments are entitled to take action that may impinge upon such rights in order to answer the threat of global terrorism. Post 9/11, this argument poses a very significant challenge to the impetus behind the protection of international human rights. In this course, we shall explore the relationship between international human rights and the rule of law with a view to analyzing this argument.

Course Structure: Although advertised as a lecture, this course is a seminar. You will be involved in small group discussions and workshop settings and will be responsible for producing smaller written assignments, in addition to the one major essay. You are expected to attend every class in order to be an informed and active participant.

Required Texts: Available at Octopus Books, 116 Third Avenue (just west of Bank Street in the Glebe).

LAWS 4604A Coursepack.

Some readings will be posted electronically.

Evaluation: All components must be completed to receive a grade.

- 1) 25% Informed Participation (including in-class work).
- 2) 25% Mid-term Outline for Final Term Paper of no more than 4-5 double spaced pages (including bibliography) due OCTOBER 15, 2007.
- 3) 50% Final Term Research Paper of no more than 12-15 double spaced pages (including bibliography) due NOVEMBER 26, 2007.

NOTE ON ASSIGNMENTS: Extensions are not given except in extreme circumstances supported by appropriate documentation. All assignments are due when class begins and late assignments are deducted 2% per day.

The ABSOLUTE FINAL date for submitting a LATE Final Term Paper is December 3. NO term work will be accepted beyond this date without a formal petition.

Please ensure that you keep electronic copies of all your assignments.

1. September 10 – Introduction

How does the 'war' on global terrorism affect the protection of international human rights in Canada?

2. September 17 – The Human Rights Story

Required reading: Micheline R. Ishay, *The History of Human Rights: from Ancient Times to the Globalization Era* (California: University of California Press, 2004), Chapter Four, 173-243.

3. September 24 – Are Human Rights Immanent in the Concept of Law?

Required reading: Brian Z. Tamanaha, *On the Rule of Law: History, Politics, Theory* (Cambridge: Cambridge University Press, 2004), Chapters Seven and Eight, 91-113.

Required reading: Hersch Lauterpacht, 'Is International Law Part of the Law of England' (1939) 25 *Transactions of the Grotius Society* 51 – 88.

4. October 1 – Are Human Rights Immanent in Canadian Law?**Class Workshop: Constructing a Thesis Outline and Abstract**

Required reading: David Dyzenhaus, 'The Rule of (Administrative) Law in International Law' (2005) 68: 3 *Law and Contemporary Problems* 127 – 166.

5. October 8 – Statutory Holiday**6. October 15 – Are Human Rights Universal? – Mid-Term Outline due.**

Required reading: Guyora Binder, 'Cultural Relativism and Cultural Imperialism in Human Rights Law.' (1999) 5 *Buffalo Human Rights Law Review* 211-222.

Required reading: Michael Freeman, 'Universal Rights and Particular Cultures' in Michael Jacobsen & Ole Bruun eds., *Human Rights and Asian Values: Contesting National Identities and Cultural Values in Asia* (Surrey: Curzon Press, 2000), Chapter Two, 43-58.

Required reading: Joseph Chan, 'Thick and Thin Accounts of Human Rights: Lessons from the Asian Values Debate' in Michael Jacobsen & Ole Bruun eds., *Human Rights and Asian Values: Contesting National Identities and Cultural Values in Asia* (Surrey: Curzon Press, 2000), Chapter Three, 59-74.

7. October 22 – Global Terrorism and International Human Rights

Required reading: Michael Freeman, 'Order, Rights, and Threats: Terrorism and Global Justice' in Richard Ashby Wilson ed., *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005), Chapter One, 37-56.

Required reading: Victor V. Ramraj, 'The Emerging Security Paradigm in the West: A Perspective from Southeast Asia' (2003) 1 *Asia-Pacific Journal on Human Rights and the Law* 1-20.

8. October 29 – Balancing 'Off' Human Rights?

Required reading: David Luban, 'Eight Fallacies about Liberty and Security' in Richard Ashby Wilson ed., *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press, 2005), Chapter Twelve, 242-257.

Required reading: Jeremy Waldron, 'Security and Liberty: The Image of Balance' (2003) 11:2 *The Journal of Political Philosophy* 191- 210.

9. November 5 – Detention without Trial**Class Workshop: Draft Papers**

Required reading: *Charkaoui v. Canada (Citizenship and Immigration)* [2007] SCC 9 to be **posted online**.

Required reading: Mike Larsen & Justin Piche, 'Incarcerating the 'Inadmissible': KIHC as an Exceptional Moment in Canadian Federal Imprisonment' (2007) York Centre for International Security Studies Working Paper Number 45. 1-22 to be **posted online**.

Suggested reading: Audrey Macklin, 'Borderline Security' in R. Daniels et al. (eds.), *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill* (Toronto: University of Toronto Press, 2001), 383-405.

Suggested reading: Ralph Wilde, 'Legal 'Black Hole' Extraterritorial State Action and International Treaty Law on Civil and Political Rights' (2005) 26 *Michigan Journal of International Law* 739 -806.

10. November 12 – Security Certificates with Justin Piche.

Required reading: Mike Larsen & Justin Piche, 'Incarcerating the 'Inadmissible': KIHC as an Exceptional Moment in Canadian Federal Imprisonment' (2007) *York Centre for International Security Studies Working Paper Number 45*. 1-22.

11. November 19 – Torture and Human Rights.

Required reading: Oona A. Hathaway, 'The Promise and Limits of the International Law on Torture' in Sanford Levinson ed., *Torture: A Collection* (Oxford: Oxford University Press, 2004), Chapter Eleven, 199-212.

Required reading: Jeremy Waldron, 'Torture and Positive Law: Jurisprudence for the White House' (2005) 105:6 *Columbia Law Review* 1681 – 1750.

Suggested Reading: Alan M. Dershowitz, 'Should we fight terror with torture?' (2006) July 3rd, *The Independent*, U. K. to be **posted online**.

Suggested Reading: The Bybee Torture Memo to be **posted online**.

12. November 26 – Canada's Obligations Regarding Torture – Final Term paper due.

Required reading: *Suresh v. Canada (Minister of Citizenship and Immigration)* [2002] 1 SCR 3 to be **posted online**.

Required reading: Evan Fox-Decent, 'Suresh and Canada's Obligations Regarding Torture' (2001) 12 *National Journal of Constitutional Law* 425.

13. December 3 – No class. LATE Final Term papers due.