

Course Outline

COURSE:	LAWS 4604 A – International Human Rights
TERM:	Summer 2010
PREREQUISITES:	LAWS 2105, LAWS 3503, LAWS 3503 [1.0] (no longer offered), LAWS 3509, LAWS 3603, or LAWS 3603 [1.0] (no longer offered)
CLASS:	Day & Time: Tuesday & Thursday – 1435-1725 Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Doris Buss
CONTACT:	Office: D495 LA (Loeb) Office Hrs: Wednesday 12:00-1:30 Email: doris_buss@carleton.ca (NB:- it is better to contact me by email than by phone)

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **June 11, 2010 for June exams and July 30, 2010 for August exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

INTRODUCTION

In recent years, the study and practice of international human rights have undergone rapid change. In an increasingly globalised world order, international human rights appears to be assuming an important, though not uncontroversial status as the arena for safeguarding human dignity and security, and providing some measure of international democracy. In a post-cold war period, human rights have become something of a new paradigm for elaborating standards for social justice, from the conduct of the World Bank, IMF and transnational corporations, to human rights of previously marginalised groups, such as women or lesbians and gay men. The establishment of war crimes tribunals for the Yugoslav and Rwandan atrocities, together with the newly negotiated International Criminal Court, is yet another outgrowth of international human rights standards.

In this course, we will explore the changing nature of international human rights from the post-war standard-setting period through to the expansionist phase of the 1990s. Essential to this exploration will be a consideration of the geo-political context of human rights debates and the ways in which international inequality shapes, constrains, and problematises human rights developments. The starting premise of this course is that international human rights law must be viewed as an interrelated whole. Rather than surveying the myriad of human rights norms, this course examines how the very boundaries of international human rights law are being pushed and sometimes circumscribed by global change. We start in this course, with a reading and examination of the 'foundational' human rights documents – the 'international bill of rights' – to provide a context within which to position and understand subsequent human rights developments. From there, the course considers the expansion of human rights law through an examination of such things as women's rights, the involvement of nongovernmental organisations, and the human rights consequences of corporate activity.

AIMS

This course aims to:

- introduce students to the laws and institutions that structure international human rights;
- explore the different sites at which human rights norms develop and are applied;
- provide students with a critical understanding of international inequality and global change as a context within which to consider human rights guarantees;
- encourage critical reflection on and questioning of international human rights law.

OBJECTIVES

By the end of this course, students should be able to:

- explain to a lay person the content and scope of the principal international human rights documents;
- discuss in a class room setting the various mechanisms by which international human rights violations are addressed;
- identify and apply, in class room discussion, some of the different critical perspectives on international human rights;
- critically analyse and demonstrate a strong grasp of key debates within international human rights; and
- Demonstrate an awareness of the different actors and institutions involved in developing international human rights law;

MATERIALS

Most of the materials for this class have been compiled into a 'course pack' which is available for you to buy from Octopus Books, 116 3rd Avenue, Ottawa, ph: 233 2589. Electronic sources have NOT been copied (to keep costs down) and must be accessed through the Carleton library. The course pack is invaluable and the materials in the pack are not necessarily available or accessible from the Carleton library.

ASSESSMENT, WEIGHT AND DUE DATES - All components must be completed to pass this course

- a. **Essay/Critical Comment:** 25 % written essay,
- b. **Annotations or Discussion Leader:** 15% annotations/discussion

Each student is responsible for one essay to be submitted during the term. Students can choose from one of two options:

Essay/Critical Commentary on the readings from one of the weeks and included on a list to be circulated in class. Students must sign up for these *in advance and in class*. Select one of the readings from the list. You are responsible for writing a 8-10 page essay on that article, setting out the author's argument and then considering how the author's argument pertains to, challenges, reinforces, questions, complicates the course themes and particularly the RELATED themes emerging from that week's material. In some cases, the article under review may more directly engage with readings from an earlier week. In that case, a good critical commentary will reflect on those readings.

Annotations: Annotations: In addition to the essay, write annotations on THREE **academic** sources (ie journal articles or books) that pertain to the topics/themes you raise in your commentary. None of these sources can be from the course materials. NB: academic journals are found in the library or from the library catalogue and may include electronic sources. These are written by scholars and are normally peer-reviewed. Do not include activist publications or popular press items (such as magazine articles) without checking with me first.

OR

Discussion leader: The student will present the article and their critical review of it (15 minutes, approx) in the class for which the reading was assigned. The student will then structure class discussion on that article by raising discussion questions or some other group-based activity (15-20 min). This component will be assessed on: the student's ability to clearly, succinctly and accurately present the author's main argument(s), with an engaging speaking style that does not simply reproduce the materials in the article, and finally, poses critical questions/structures class discussion in a manner that demonstrates an understanding and appreciation of the article and its relationship to the themes of the course.

- c. **Participation marks:** 10%
This will be based on a substantive (rather than merely vocal) engagement with the materials and the discussion in class. This mark is more than attendance and requires that students have READ and THOUGHT about the course materials.
- d. **Take-home exam** 50% - due July 5, 2010.
The exam will be made available on Web CT and in class on June 17, 2010.

****** IMPORTANT **** Submitting Assignments**

1. Students must complete ALL assignments to pass this course.
2. Extensions are NOT given out for any assignment except in very extreme circumstances and WITH supporting documentation (ie doctor's note, coroner's report)
3. Assignments due in class must be submitted IN CLASS. Assignments submitted otherwise will be marked late.
4. Late assignments will be deducted 2 marks/per day.
5. Any assignment submitted 7 days after the due date will be given a mark of '0'.

**MAY 11 Introduction to course and general administration.
Introduction to International Human Rights/Bill of Rights**

READINGS (for both May 11 and May 13):

Finnuala Ni Aolain, 2009. "Gendering the Declaration" Maryland Journal of International Law 24: 334-344 (on line);
Charlesworth and Chinkin, *The Boundaries of International Law*, chapter 7: 201-222; 231-247;
Texts of the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, all downloadable from the Office of the UN High Commissioner for Human Rights webpage, <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

PLEASE BRING THESE WITH YOU TO CLASS ON May 11 and May 13.

Review "General Comments" made by the Committees that enforce the ICCPR and the ICESCR (this information is also available on the OHCHR site – find it!)
Amnesty International, *Deadly Delivery: The Maternal Health Care Crisis in the US*, (available from AI, or Web CT course site)
Paul Hunt and Judith Bueno de Mesquita, University of Essex, *Reducing Maternal Mortality: The Contribution of the Right to the Highest Attainable Standard of Health* (web CT);
Action Canada for Population and Development (ACPD), "Call to Action: Maternal and Child Health at the G8 Summit" <http://www.acpd.ca/node/62>

**MAY 13 The International Covenant on Civil and Politics Rights
Case Study: Maternal Mortality**
Readings: listed above

MAY 18 Making (sense of) Human Rights Norms

Mark Goodale, 2007. "Locating Rights: Envisioning Law Between the Global and the Local" in Goodale and Merry, eds. *The Practice of Human Rights: Tracking Law Between the Global and the Local*, pp. 1-24 (course materials)
Margaret Keck and K Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*, pp 1-38 (course materials);
Marie-Benedicte Dembour. 2010. "What are Human Rights: Four Schools of Thought" *Human Rights Quarterly* 32: 1-20 (online).

**MAY 20 International Human Rights Institutions
Case Study: Committee for the Elimination of all Forms of Discrimination against Women**

Gerd Oberleitner, 2007. *Global Human Rights Institutions: Between Remedy and Ritual*, pp. 6-22; 23-44; 54-61 (course materials)
Sally Engle Merry, 2006. *Human Rights and Gender Violence: Translating International Law into Local Justice*, pp. 72-102 (course materials).
Review the Convention on the Elimination of all Forms of Discrimination against Women, available at <http://www2.ohchr.org/english/bodies/cedaw/index.htm>
Review the operation of the Committee that oversees CEDAW, <http://www2.ohchr.org/english/bodies/cedaw/index.htm>
Feminist alliance for International Action, report on Canada's follow up to its CEDAW Report, "No Action, No Progress", available at <http://www.fafia-afai.org/en>

MAY 25 Nongovernmental Organizations (NGOs)

The readings for this class take up some of the issues and debates around the growing prevalence of human rights international nongovernmental organizations. The first excerpt by Boyle and Chinkin sets the stage by briefly explaining the different ways in which NGOs engage in international law making. Human rights NGOs have exploded in size, number and influence. The reading by David Kennedy raises some concerns about this 'explosion' and the direction it has taken. The next two articles are part of a larger debate that took place last year in the academic journal Human Rights Quarterly. That debate started when Kenneth Roth published his article, which is copied in the materials. Leonard Rubenstein responded to Roth in 'How International Human Rights Organization's Can Advance Economic, Social and Cultural Rights: A Response to Kenneth Roth' (2004) 16 Human Rights Quarterly 846. You are not required to read the article the abstract for which reads:

'International human rights organizations can play a productive role in advancing economic, social, and cultural rights. They can (1) collaborate with partner organizations in the developing world in lobbying for systems of services that meet needs in a manner consistent with human rights requirements; (2) advocate for resources to fulfill economic, social, and cultural rights, especially by lobbying for funds from wealthy countries; and (3) monitor compliance by states with the increasingly explicit obligations, including core obligations, to protect, respect and fulfill these rights. To engage in these activities, international human rights organizations can build on the analytical capacity and other strengths they have developed in advancing civil and political rights but need to develop additional methods and competencies.'

There was an additional contribution by Mary Robinson, the former Commissioner on Human Rights and a reply to both by Kenneth Roth. Later the second piece we'll read, by Tomasevski was published. What intervention do you think Kennedy would make in this debate?

Boyle and Chinkin, The Making of International Law, pp. 52-74; 81-90 (course pack);
Kenneth Roth, 'Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization,' (2004) 26 Human Rights Quarterly 63-73.
Katarina Tomaševski, 'Unasked Questions about Economic, Social, and Cultural Rights from the Experience of the Special Rapporteur on the Right to Education (1998-2004): A Response to Kenneth Roth, Leonard S. Rubenstein, and Mary Robinson,' (2005) 27 Human Rights Quarterly 709-720.

MAY 27 NGOs (continued)

David Kennedy, 'The International Human Rights Movement: Part of the Problem?' in The Dark Sides of Virtue: Reassessing International Humanitarianism, pp. 3-35; (course pack)
TBA

JUNE 1 Women's Rights

Yakin Ertürk, 2008. "The Due Diligence Standard: What Does it Entail for Women's rights?" in Benninger-Budel (ed) Due Diligence and its application to Protect Women from Violence (Leiden, Martinus Nijhoff, 2008), pp. 27-46 (course materials);
M.C. Sungaila. 2010. "Juaraz: Women's Rights as Human Rights", blog on IntLawGrrls, March 20, 2010, at <http://intlawgrrls.blogspot.com/2010/03/juarez-womens-rights-as-human-rights.html>
Cheah Wui Ling. 2009. "Walking the Long Road in Solidarity and hope: A Case Study of the 'Comfort Women' Movement's Deployment of Human Rights Discourse" in Harvard Human Rights Journal 22: 63-107

JUNE 3 International Criminal Court: a new move to human rights?

Go to the International Criminal Court website and read all the material under 'About' the court, including the detailed overview of the Court: the ICC at a glance, the structure of the Court, Jurisdiction and so on. You should also review and make yourself familiar with the current situations in which the Court has laid charges and/or has started trials against named accused.

JUNE 8 War crimes trial and human rights

Sikkink and Walling. 2007. "The Impact of Human Rights Trials in Latin America" *Journal of Peace Research* 44(4): 427-445;

Gerry Simpson. 2007. *Law, War and Crime: War Crimes Trials and the Reinvention of International Law*, Ch. 5 "Law's Anxieties: Show Trials", pp. 105-131;

JUNE 10 Holding Corporations Accountable domestically and internationally

Anne-Marie Slaughter and John Bosco. 2000 "Plaintiff's diplomacy" *Foreign Affairs* 79 (5): 102-116

John G. Dale, 2007. "Transnational Legal Conflict Between Peasants and Corporations in Burma: Human Rights and Discursive Ambivalence under the US Alien Tort Claims Act", in M Goodale and S Merry, eds. *The Practice of Human Rights* CUP, pp. 285-319 (course materials);

Steiner, Alston and Goodman, *International Human Rights in Context*, ed. Ed., excerpts on 'Non-state actors and human rights', pp. 1385-1393;1396-1398 (course materials);

Go to <http://wiwavshell.org/> and read the background on the Wiwa v. Shell case: "The Case Against Shell", "Shell's Environmental Devastation in Nigeria" and the settlement reached in the case.

JUNE 16 The Future of Human Rights

Balakrishnan Rajagopal, "Counter-hegemonic International Law: Rethinking human rights and development as a Third World Strategy", *Third World Quarterly* 27: 767-783.

Upendra Baxi. 2006. "Politics of Reading Human Rights: Inclusion and Exclusion within the production of human rights" in the *Legalization of Human Rights*. S. Meckled-Garcia and B. Cali, eds. Routledge. (course materials).

JUNE 17 Review and Exam Distribution