Socio-Economic Rights: Selected Issues

Dr. Inga Winkler
Lecturer in Human Rights

Spring 2018
Course number: HRTS GU4500
Class Time: T 8:10pm-10:00pm
Classroom: IAB 402

Instructor: Inga Winkler
Office: Kent 622
Office Hours: T 4:00-6:00 pm or by appointment
Office Phone: (212) 854-0604
Email: inga.winkler@columbia.edu

Course synopsis

The course addresses selected issues in the protection of socio-economic rights in an international and comparative perspective. Socio-economic rights have emerged from the margins into the mainstream of human rights. The course will take this status as its starting point and examine the human rights to housing, food, water, health and sanitation in depth. We will explore conceptual issues through the lens of specific rights which will help us ground these principles and ideas in concrete cases. We will discuss developments on socio-economic rights and examine their relevance in the United States as well as selected other countries, particularly those with progressive legislation, policies and jurisprudence.

What is the meaning and scope of the rights to housing, food, water, health and sanitation? What is the impact of discrimination and inequalities on the enjoyment of socio-economic rights? How can governments be held accountable for the realization of human rights? What machinery is there at the international level to ensure that the rights are protected, respected and fulfilled? How can this machinery be enhanced? How can judicial, quasi-judicial, administrative and political mechanisms be used at the domestic level? What is the role of different actors in the context of human rights, the role of States and individuals, but also (powerful) non-State actors and civil society? How have activists and policymakers responded to challenges? And what lies ahead for the human rights movement in addressing economic and social rights in a multilateral, globalized world?
Course materials

No course book is required. The materials will be made available to students at the beginning of the semester. The majority of materials is available on CourseWorks. The remaining materials have been put on reserve in the Lehman Library.

Where materials are available online, the URL is provided on the reading list. Official UN documents are available (using the symbol number) in the UN’s Official Document System (http://documents.un.org) or at www.ohchr.org.

For those interested, including in human rights more broadly, “International Human Rights” by Philip Alston and Ryan Goodman (Oxford University Press, 2013) is recommended. We will use a few excerpts from this book in class.

We will also use a number of chapters from: LaDawn Haglund and Robin Stryker (eds.), Closing the Rights Gap, From Human Rights to Social Transformation, University of California Press, 2014


Learning outcomes and expectations

Students are expected to participate actively in the class. We will devote time to discussion in each class, sometimes in small groups. We will have some (group) exercises encouraging (self)reflection and the application of human rights standards and principles.

Students are expected to do the required reading ahead of class. There will also be regular assignments aimed at understanding, analyzing and applying the readings and preparing them for discussion in class. Please check CourseWorks each week.

Apart from developing knowledge on human rights principles and concepts as well as specific economic, social and cultural rights that we will cover in more depth, students are expected to develop their own views on these issues. The course aims at stimulating discussion and debate and encourages students to re-evaluate policy and practice in many different fields from a human rights perspective.

Requirements

Course grades will be based on a draft and final paper, a mid-term take-home exam, and participation in class and group work.

Attendance and participation: 10%

All students are required to attend class regularly. Students are expected to do the required reading in advance, and to participate actively in discussions. To facilitate a fruitful discussion, students are advised to take notes of particular issues and prepare questions and comments they would like to discuss in class.
Participation in Group Work: 10%

We will have several sessions of group work in class including various short exercises aimed at applying human rights and encouraging (self)reflection, a simulation of a hearing and a world café. Students are expected to actively take part in these exercises.

Mid-Term Take Home Exam: 30%

The Mid-Term Exam will be a take-home exam. It will include a number of short answer questions and a short essay of approx. 5 pages. It is due on March 6 and will be posted a week in advance on CourseWorks.

Analytical Paper: Total of 50%

Students will prepare a paper that analyses an issue of their choice related to issues covered in the course—thematic or country-specific, conceptual or focused on a particular right—and how different voices and actors are addressing it, and potential developments/relevant considerations moving forward. The paper can address human rights violations or highlight positive developments. Regardless of the topic, the emphasis should be on the human rights analysis.

Students are expected to write a 15-20 page paper (double-spaced).

- Students must choose their topic by Week 4 and communicate it to the instructor in writing. They should feel free to discuss ideas with the instructor.
- A first draft will be due in Week 10. This should be a summary exploration of what will be the final paper, with a preliminary bibliography and initial research findings. 8 pages minimum. (20% of grade)
- Students will then have the opportunity to revise the paper based on comments and feedback from instructor.
- The final version is one week after the last class. (30 % of grade)

Writing Centers. For drafting the papers, students are encouraged to use the Writing Centers. More information about the centers and the possibility to make appointments is available at http://www.college.columbia.edu/core/uwp/writing-center and http://writing.barnard.edu/.

Extension policy. Assignments should be completed by the due date, first so that students can keep up with their work in this and other classes, and second so that they can cultivate a professional habit of turning in work on time.

Extensions will only be granted on an exceptional basis, such as illness or a family emergency. Extensions will not be granted for poor time management. Students who wish to request an extension should email the instructor to ask for the extension; give the reason; and specify the additional time needed. Extensions will be decided on a case-by-case basis based on supporting documentation. If there is no documented reason for an exception, students will receive a grade reduction penalty for any work submitted late.

Late submissions will reduce your assignment grade by ⅓ of a letter grade per two days after the deadline (that is, from what would have been an A to an A- after 48 hours, to a B+ after 96 hours, to a B after 144 hours etc.). Final assignments at the end of the semester cannot
be submitted late unless students are granted an Incomplete by their School. Policies vary somewhat by School, but in general we cannot submit an Incomplete without the permission of your dean. If you need to request an Incomplete, you should contact your advising dean.

**Academic Integrity**

Students are expected to do their own work on all assignments for this course and act in accordance with the Faculty Statement on Academic Integrity and Honor Code established by the students of Columbia College and the School of General Studies. Because any academic integrity violation undermines our intellectual community, students found to have cheated, plagiarized, or committed any other act of academic dishonesty can expect academic sanctions and may be referred to the Dean’s Discipline process.

Students are encouraged to familiarize themselves with different forms of plagiarism and what they involve. Apart from verbatim copying, paraphrasing text in different words without acknowledging the sources also amounts to plagiarism. Students are encouraged to use the [Columbia University Undergraduate Guide to Academic Integrity](#), which provides more detailed information.

**Students with disabilities**

Students with disabilities have rights to reasonable accommodation. In order to ensure their rights, it is the responsibility of students to report any learning-related disabilities, to do so in a timely fashion, and to do so through the Office of Disability Services. Students can contact Disability Services at 212-854-2388 and [disability@columbia.edu](mailto:disability@columbia.edu). Students who have documented conditions and are determined by DS to need individualized services will be provided an DS-certified ‘Accommodation Letter’. It is students’ responsibility to provide this letter to the instructors and in so doing request the stated accommodations. Students are encouraged to confirm accommodation needs with the instructor during office hours.
1) Objectives and Introduction: Socio-Economic Rights Today (January 16)

Objectives and concept of the course; 20 years of socio-economic rights advocacy; the future of socio-economic rights

Required reading:

- Daniel P. L. Chong, Debating Human Rights, Chapter 12, Lynne Rienner Publishing 2014
- CESR, Twenty Years of Economic and Social Rights Advocacy, available at: [http://www.cesr.org/downloads/cesr_20years_escr.pdf](http://www.cesr.org/downloads/cesr_20years_escr.pdf) (Pick some essays and feel free to skim the others.)
- Look through the website of the Committee on Economic, Social and Cultural Rights

2) The Human Right to Housing: Progressive Realization and the Idea of a Minimum Core (January 23)

Key concepts for socio-economic rights: Progressive realization, the minimum core approach, maximum available resources illustrated through the right to housing and the South African landmark Grootboom case

- Scott Leckie, ‘The Human Right to Adequate Housing’ in Eide, Krause & Rosas (eds.) 149-168
- UN Committee on Economic, Social and Cultural Rights, General Comment No. 20 on non-discrimination, 2009, E/C.12/GC/20

**Further reading:**

3) **The Right to Housing and the Right to Life: The Indivisibility of Human Rights (January 30)**

*State obligations in realizing human rights; indivisibility and inter-relatedness of all human rights*

*Discussion: Drafting of the new General Comment on the right to life by the Human Rights Committee*

**Reading:**
- Vienna Declaration and Program of Action, in particular para. 5, [http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx)
- Report by the Special Rapporteur on the Right to Housing, Leilani Farha, *The right to life and the right to adequate housing: the indivisibility and interdependence between*
these rights, UN Doc. A/71/310, available at: http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx

4) The Human Right to Housing: Forced Evictions (February 6)

Obligations to respect human rights, procedural standards, participation

Reading:

5) The Human Right to Food in India, the US, and South Africa (February 13)

Case studies with a focus on implementation at the national level; analysis of different actors involved and different strategies employed

Required Reading:
- LaDawn Haglund and Robin Stryker, Introduction: Making Sense of the Multiple and Complex Pathways by which Human Rights are Realized, in: LaDawn Haglund and Robin Stryker (eds.), Closing the Rights Gap, From Human Rights to Social Transformation, University of California Press, 2015, 1-26
- Sakiko Fukuda-Parr and Viviene Taylor, Food Security in South Africa, Human Rights and Entitlements Perspectives, Chapter 1 and Chapter 13

Further reading:

6) The Right to Water: Privatization of Public Services (February 20)

*Privatization, obligation to protect, responsibilities of the private sector*

*Debate on Privatization through the lens of human rights*

- Madeline Baer, Stemming the Tide, Human Rights and Water Policy in a Neoliberal World, OUP 2017, Introduction & Conclusion

7) The Human Right to Water in the United States (February 27)

*Using global mechanisms to address local challenges*

*Role play: A Hearing by the Special Rapporteur in Detroit*

- Alston / Goodman, pp. 691-693, 699-701
- Christophe Golay, Claire Mahon and Ioana Cismas, ‘The impact of the UN special procedures on the development and implementation of economic, social and cultural rights’, The International Journal of Human Rights, Vol. 15, No 2 (2011)
- Office of the United Nations High Commissioner for Human Rights: look at www.ohchr.org/english/bodies/ and explore some of the relevant links to get an overview of the UN human rights system focused on ESCR bodies and mandates
- Letter of allegation sent by UN Special Rapporteurs and Response by US Government (uploaded on CourseWorks)
- Joint Press Statement by Special Rapporteur on adequate housing and Special Rapporteur on the human right to safe drinking water and sanitation Visit to city of Detroit (United States of America) 18-20 October 2014 (uploaded on CourseWorks)

8) The Human Right to Health: Justiciability (March 6)

Justiciability; role of the courts; risk of elite capture; challenges in addressing systemic human rights violations

- Select one country chapter in Langford (ed.): South Africa or India

9) Spring Break (March 13)

10) The Human Right to Health: Monitoring and Measuring (March 20)

The role of monitoring in ensuring accountability for the right to health
Potential guest lecture: Mihir Mankad, Center for Economic and Social Rights (tbc)

- Alicia Ely Yamin, Power, Suffering, and the Struggle for Dignity Human Rights Frameworks for Health and Why They Matter, UPenn Press, 2016, Chapter 5 on Accountability
- Sakiko Fukuda-Parr, Terra Lawson-Remer & Susan Randolph, Making the Principle of Progressive Realization Operational: The SERF Index, and Index for Monitoring State Fulfillment of Economic and Social Rights Obligations, in: LaDawn Haglund and Robin Stryker (eds.), Closing the Rights Gap, From Human Rights to Social Transformation, University of California Press, 2015, 239-264

11) The Human Right to Health: Inequalities in the Sustainable Development Goals (March 27)

Exercise in class: World Café discussion on the SDGs and to what extent they reflect human rights

- Gillian MacNaughton, Vertical Inequalities: Are the SDGs and Human Rights up to the Challenges?, International Journal of Human Rights Vol 21 (2017), 1050-1072

Further reading:

12) Menstrual Health and Substantive Equality (April 3)

Substantive equality framework, role of historical disadvantage, biological differences and social norms and stereotypes

- Christine Chinkin, ESC Rights and Gender, in Eibe Riedel, Gilles Giacca & Christophe Golay, Economic, Social and Cultural Rights: Contemporary Issues and Challenges (Chapter 16), (Oxford University Press, 2013)
- UN Committee on Economic, Social and Cultural Rights, General Comment No. 20 on non-discrimination, 2009, E/C.12/GC/20 (re-read)
- Sandra Fredman, Substantive Equality Revisited, International Journal of Constitutional Law, Volume 14, Issue 3, 1 July 2016, Pages 712–738 (and responses as further reading)
- Inga T. Winkler and Virginia Roaf, Taking the Bloody Linen out of the Closet – Menstrual Hygiene as a Priority for Achieving Gender Equality, Cardozo Journal of Law and Gender 2015 (21/1), 1-37

Further reading on economic inequalities:
- Read through some of the posts in the debate on human rights and economic inequality on: https://www.opendemocracy.net/openglobalrights/economic-inequality-and-human-rights

13) The Human Right to Sanitation (April 10)

Individual responsibilities, dignity, public health
Discussion on video clip: ‘No Relief’

Reading:
- Inga Winkler, The human right to sanitation, University of Pennsylvania Journal of International Law, Vol. 37, No. 4, 2016
- Celestine N. Musembi and Samuel M. Musyoki, CLTS and the Right to Sanitation, March 2016, available at:
- Jamie Bartram, Katrina Charles, Barbara Evans, Lucinda O’Hanlon and Steve Pedley, Commentary on community-led total sanitation and human rights: should the right to community-wide health be won at the cost of individual rights?, Journal of Water and Health, 2012, 10 (4) 499-503

14) The Right to Food in a Transnational Context (April 17)

Extraterritorial human rights obligations, food and land in a transnational context
Guest lecture: Dr. Elena Pribytkova, Columbia Law School (tbc)


Further reading:
- Smita Narula, International financial institutions, transnational corporations and duties of states, in: Malcolm Langford et al. (eds), Global Justice, State Duties The Extraterritorial Scope of Economic, Social, and Cultural Rights in International Law, CUP, 2014

15) Socio-Economic Rights in the Context of Austerity (April 24)

Non-retrogression, human rights in times of economic crises, austerity measures
Potential role-play and/or guest lecture (tbc)
- Aoife Nolan et al., Two steps forward, no steps back? Evolving criteria on the prohibition of retrogression in economic, social and cultural rights, in: Aoife Nolan, ed., 2014. Economic and Social Rights After the Global Financial Crisis, Cambridge University Press (on Reserve)