

INTERNATIONAL HUMAN RIGHTS LAW

Dr. Inga Winkler
Lecturer in Human Rights

M.A. Program in Human Rights Fall 2017

Course Number: HRTS G6800
Class Time: Tuesday, 6:10-8:00pm
Classroom: Hamilton Hall 413

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Course synopsis

This course will provide an introductory understanding of the fundamental concepts and problems of international human rights law. What are human rights? Who has the obligation to ensure, respect, protect and fulfill human rights – and who may be held accountable for their violations? Who has the powers to enforce these obligations? Combining theory, law, policy and practice in human rights, we will explore the strengths and the challenges in the international human rights regime.

We will also take a look at related areas of law, including international humanitarian law, international criminal law, and international refugee law. To deepen our understanding of the relevance of human rights concepts in ongoing political discussions, we will explore a number of topical issues in depth including the concept of the responsibility to protect.

No prior knowledge of international law is required. While the topics are necessarily law-related, the course will assume no prior exposure to legal studies.

Course materials

The following book is required:

Hurst Hannum, S. James Anaya & Dinah L. Shelton, *International Human Rights – Problems of Law, Policy & Practice* (Aspen Publishers, 2011, 5th edition) (“HAS IHRL”)

Additional chapters will be assigned from the following recommended books:

James Crawford, *Brownlie's Principles of Public International Law*, 8th edition (OUP, 2012)

Daniel P. L. Chong, *Debating Human Rights* (Lynne Rienner Publishing, 2014)

Other materials are available online. Links are included in the syllabus. Others are official UN Documents. Please familiarize yourself with finding UN Documents on the Official Document Service (ODS) and the various databases on the OHCHR website:

<https://documents.un.org/prod/ods.nsf/home.xsp>

<http://www.ohchr.org/EN/PublicationsResources/Pages/databases.aspx>

Further materials will be made available on CourseWorks and in the Lehman Library in the course reserves.

Learning outcomes and expectations

Students are expected to participate actively in 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.

At the end of the class, students should be able to demonstrate an understanding of the sources of international human rights law, how they are developed and interpreted, key legal concepts, the different actors involved in the development and implementation of human rights law, and the major institutions for protecting and enforcing human rights.

Students should be able to read human rights treaties, instruments, documents and judgments, identify relevant factual and legal questions, and explain and critique the rationale for findings. They should be able to examine a real or hypothetical situation, develop legal arguments drawing on relevant sources of international law and discuss multiple perspectives.

Apart from developing knowledge on human rights principles and concepts, students are expected to develop their own views on these issues. They should be able to articulate the strengths as well as the limitations of a legal approach in advancing human rights. The course aims at stimulating discussion and debate and encourages students to re-evaluate policy and practice in many different fields from the perspective of international human rights law.

Requirements

Course grades will be based on attendance and participation (5%), participation in exercises and group work (10%), a presentation in class (15%), two short notes

discussing a news item through the lens of international human rights law (20% total), and a paper that analyses a significant human rights judgment or decision (50%).

Students must attend class regularly to earn a passing grade. Your contribution to classroom learning is essential to the success of the course. Any more than two absences might lead to a need to withdraw from the course or a failing grade. In addition, every student must be in class on time. It is disruptive to classroom learning when someone enters the room after class has started. Both attendance and lateness will be counted in the calculation of your final grade. If you will be absent, late or have to leave early, please let me know in advance as much as possible.

Attendance and participation: 5 %

Students are required to attend class regularly. You 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. We will have at least two guest speakers over the course of the semester and you are expected to prepare questions for discussion with them.

Participation in Group Work: 10%

We will have several sessions of group work in class including various exercises and case studies aimed at applying human rights and encouraging (self)reflection, a debate and a role play. You are expected to actively take part in these exercises and your overall participation will count towards your course grade.

Presentation in class: 15 %

We will have two classes reserved for student panels with presentations (1) on self-determination, indigenous peoples and minorities and non-discrimination on **Oct. 3** and (2) on critical approaches to international human rights law on **Nov. 14**. Students will prepare presentations in groups that present key issues / concepts / theories / perspectives and potential responses and open them up for discussion in class. Groups are expected to meet with the instructor at least a week in advance of their presentation with an outline of their presentation.

Short notes: 20%

Students are expected to read the news regularly (for instance the New York Times, the Economist, the Washington Post). You are expected to turn in **two short notes** (about two double-spaced pages each) that identify a current news item and discuss it from the perspective of international human rights law, including by linking it to the relevant norms and institutions. These short notes are due on **October 10 and November 21**, but students should feel free to write them whenever they identify an interesting news item and submit them earlier.

Paper analyzing a judgment or decision: 50%

Students will prepare a paper that analyses and (potentially) critiques a significant judgment that deals with human rights law. You can choose a judgment, decision or view from an international court, a human rights mechanism, the regional human rights system, a domestic court or another relevant body. For more information on the expectations for the paper, please see **Annex III**.

Students are expected to write a 10-15 page paper (double-spaced).

- You must choose your topic by **September 19** and communicate it to the instructor in writing. Please feel free to discuss ideas with the instructor.
- A first draft is due on **October 24**. This should be a summary exploration of what will be the final paper, with a preliminary bibliography and initial research findings. 5 pages minimum. (20 % of overall course grade)
- You will then have the opportunity to revise the paper based on my comments and feedback.
- The final version is due on **December 12**. (30 % of overall course grade)

Any written assignments should be submitted via CourseWorks. Please use files in Word format (which will allow me to comment on them). Please include your name in the file name. Papers should be double-spaced and have standard 1-inch margins. Please ensure that you stay within the page limits.

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 you can keep up with your work in this and other classes, and second so that you 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 $\frac{1}{3}$ 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.

Academic Integrity

Students are expected to do their own work on all assignments for this course and act in accordance with the guidance on Academic Integrity and Responsible Conduct of Research by the Graduate School of Arts and Sciences. 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 [guidance](#) by the Graduate School of Arts and Sciences, 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. Students who have documented conditions and are determined by DS to need individualized services will be provided a 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.

Schedule of Classes and Reading List

*** Draft schedule subject to change ***

1) Sept. 5: Introduction: The History and Concept of Human Rights

- *Introduction: Approaches and expectations*
- *Brief overview of the concept and history of international human rights law*
- *Mapping main actors, institutions, sources and instruments*

Reading

- UN Charter, <http://www.un.org/aboutun/charter>. Concentrate on the Preamble and Articles 1, 2 (esp. 2.7), 13, 55, 56, 62, Chapter XI (Articles 73-74), and Chapter XII (Articles 75-85)
- Universal Declaration of Human Rights, <http://www.un.org/en/universal-declaration-human-rights/>
- HAS IHRL, pg. 2-3, skim 32-44 (philosophical underpinnings), focus on 47-53 (history), 71-84 (UN Charter), 148-152 (UDHR)
- Aryeh Neier, *The International Human Rights Movement, A History* (Princeton University Press, 2012), Chapter 1
- Skim: FRAME, Report on the mapping study on relevant actors in human rights protection, 31 January 2014

2) Sept. 12: Sources of International Human Rights Law

- *Situating international human rights law in the context of international law*
- *Development of international human rights law and emergence of new human rights*
- *Human rights treaties and their interpretation*
- *Customary international human rights law and the role of the UDHR*
- *The role of soft law and resolutions*
- **Exercise: Brief presentations on key human rights treaties**

Reading:

- The Statute of the International Court of Justice, Article 38, <http://www.icj-cij.org/documents/?p1=4&p2=2&p3=0>
- Vienna Convention on the Law of Treaties, focus on Articles 2, 26-32, available at <http://www1.umn.edu/humanrts/instreet/viennaconvention.html>
- Brownlie, Chapter 2, pp. 20-30
- HAS IHRL pp. 84-99, 109-120, 136-138 (human rights treaties), pp. 142-148 (soft law) 152-168 (legal status of the UDHR and CIL), pp. 409-422 (developments in the context of business & human rights - Please note the additional readings below for updates in the context of business & human rights.)

- Smita Narula, *The Right to Food, Holding Global Actors Accountable Under International Law*, 44 (2006) Columbia Journal of Transnational Law 691, pp. 771-797

Further reading:

- Guiding Principles on Business and Human Rights, available at: http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- Work of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, available at: <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx>

3) Sept. 19: The International Bill of Rights and State Obligations

*****Choose topic for analytical paper*****

- *Indivisibility and inter-relatedness of all human rights*
- *Obligations to respect and ensure civil and political rights*
- *Obligations to respect, protect and fulfill economic, social and cultural rights and the concept of progressive realization*
- ***Discussion: Drafting of the new General Comment on the right to life by the Human Rights Committee***

Reading:

- International Covenant on Economic Social and Cultural Rights, especially Preamble, Articles 1-17, 25, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- International Covenant on Political and Civil Rights, esp. Parts I-IV, <http://www1.umn.edu/humanrts/instreet/b3ccpr.htm>
- HAS ILHR, pp. 362-392 (State obligations)
- Human Rights Committee, *Nature of the General Legal Obligation Imposed on States Parties to the Covenant, General Comment No. 31*, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en
- Vienna Declaration and Program of Action, in particular para. 5, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>
- The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997), available at https://www1.umn.edu/humanrts/instreet/Maastrichtguidelines_html
- Asbjørn Eide, Catarina Krause, Allan Rosas (eds.), *Economic, Social and Cultural Rights: A Textbook* (Kluwer Law International, 2nd ed., 2001), chapters 2 and 3

4) Sept. 26: Reservations, Understandings and Declarations

- *Reservations, understandings and declarations and the nature of human rights treaties*
- *Objections to reservations*
- *Determining compatibility with human rights treaties: Roles and tensions*
- ***Exercise: Analysis of reservations to CEDAW***
- ***Case study: Reservations relating to Sharia law***

Reading:

- Vienna Convention on the Law of Treaties, focus on Articles 2, 19-23, available at <http://www1.umn.edu/humanrts/instreet/viennaconvention.html>
- HAS IHRL pp. 120-136, 139 (reservations)
- Senate Committee on Foreign Relations, Report on the International Covenant on Civil and Political Rights, 1992, Section VII, Explanation of Bush Administration Conditions, <http://www.state.gov/documents/organization/235639.pdf>
- Louis Henkin, *U.S. Ratification of Human Rights Conventions: The Ghost of Senator Bricker*, 89 A.J.I.L. (1995) 341
- Rebecca J. Cook, *Reservations to the Convention on the Elimination of All Forms of Discrimination against Women*, 30 VA. J. Int'l L. 643 (1990)

5) Oct. 3: Self Determination, Indigenous Peoples & Minorities

- ***Panel with student presentations (4 groups)***
 - o *Right to Self-determination*
 - o *Rights of Indigenous Peoples*
 - o *Rights of Minorities*
 - o *Non-discrimination and equality*
- *Discussion in class on tensions and complementarity of these concepts, including on collective and individual rights*
- *Brief excursus on the concept of the State in international law and the question of secession*

Reading:

- HAS IHRL, pp. 189-208 (minorities and self-determination)
- Further readings highlighted in HAS IHRL for preparing presentations
- ***See Annex I for background, instructions and suggested readings for each group***

6) Oct. 10: Enforcement at the National Level

*****Note on current news item due*****

- *Monism and dualism*
- *Self-executing vs. non-self-executing treaties*
- *Using international human rights law for interpretation*

- *Justiciability of socio-economic rights*
- **Exercise: Self-executing treaties**

Reading:

- HAS ILHR 483-523 (Treaties), 523-526 (CIL), skim 547-571 (justiciability of ESCR), 573-580 (foreign jurisdictions)
- James Crawford, *Brownlie's Principles of Public International Law* (OUP, 2012), pp. 48-62 (relations of international and national law)
- Harold Hongju Koh, *How Is International Human Rights Law Enforced?*, *Indiana Law Journal*: Vol. 74 (1999): Issue 4, Article 9, available at: <http://www.repository.law.indiana.edu/ilj/vol74/iss4/9>
- The Committee on Economic, Social and Cultural Rights, *General Comment 9: The domestic application of the Covenant* (1998), available at <http://www1.umn.edu/humanrts/gencomm/escgencom9.htm>
- Malcolm Langford, *The Justiciability of Social Rights: From Practice to Theory*, in: *Social Rights Jurisprudence* (ed. by Malcolm Langford), Cambridge University Press, 2009

7) Oct. 17: Enforcement – International Human Rights Mechanisms

- *Treaty-based mechanisms*
- *Charter-based mechanisms: The Human Rights Council, its Special Procedures, the UPR process, Commissions of Inquiry*
- *Developments, impacts and potential reforms*

Reading:

- HAS ILHR, Chapter 7 (feel free to only skim pp. 598-616, 625-638, 647-652, 661-664)
- Optional Protocol to the ICCPR, available at <http://www1.umn.edu/humanrts/instate/b4ccprp1.htm>
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, UN Doc. A/HRC/RES/8/2 (2008)
- Felice D. Gaer, *Implementing international human rights norms: UN human rights treaty bodies and NGOs*, *Journal of Human Rights* 2003 (2/3), pp. 339-357
- Marc Limon and Ted Piccone, *Human Rights Special Procedures: Determinants of Influence* (Universal Rights Group, 2014), available at: <http://www.universal-rights.org/urg-policy-reports/special-procedures-determinants-of-influence/>
- Aoife Hegarty and Hans Fridlund, *Taking stock—the Universal Periodic Review's achievements and opportunities*, *openGlobalRights*, 11 August 2016, available at: <https://www.opendemocracy.net/openglobalrights/aoife-hegarty-hans-fridlund/taking-stock-universal-periodic-reviews-achievements-an>

Further reading:

- Office of the High Commissioner for Human Rights, *Fact Sheet on UN Treaty Bodies*, available at: www.ohchr.org/Documents/Publications/FactSheet30Rev1.pdf, pp. 19-32, 36-47

- Malcolm Langford, *Closing the Gap? An Introduction to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, Nordic Journal of Human Rights, Volume 27, No. 1 (2009), pp. 1-28 (and other contributions in this issue for further reading)
- Elvira Dominguez-Redondo, *History of Special Procedures: A 'Learning by Doing' Approach to Human Rights Implementation* (March 23, 2016), in: Aoife Nolan, Rosa Freedman and Thérèse Murphy (eds.), *The United Nations Special Procedures System* Brill, 2017
- 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 and mandates
- Hilary Charlesworth and Emma Larking, *Introduction: the regulatory power of the Universal Periodic Review*, in: Hilary Charlesworth and Emma Larking (eds.), *Human Rights and the Universal Periodic Review, Rituals and Ritualism* (CUP, 2015)

8) Oct. 24: Coercing Compliance: The Security Council, Sanctions, and the Use of Force

Draft Paper due

- *Powers of international organizations to compel States to comply with human rights law*
- *The role of the UN Security Council, including sanctions, use of force, humanitarian intervention, and the Responsibility to Protect (R2P)*
- **Debate in class on R2P**

Reading

- UN Charter, Articles VI and VII, <http://www.un.org/aboutun/charter/>
- HAS ILHR pp. 856-889 (sanctions), 899-949 (armed intervention)
- World Summit Outcome Document 2005, Paras. 138-139, <http://www.responsibilitytoprotect.org/index.php/component/content/article/35-r2pcs-topics/398-general-assembly-r2p-excerpt-from-outcome-document>

Readings for preparing your arguments for the debate:

- Daniel P. L. Chong, *Debating Human Rights* (Lynne Rienner Publishing, 2014), Chapter 5: Does the international community have a "responsibility to protect"?
- Harold Koh, *Syria and the Law of Humanitarian Intervention, Part II*, Just Security blog, Oct. 2, 2013, <https://www.justsecurity.org/1506/koh-syria-part2/>
- Response to Koh by Kevin Heller: <http://opiniojuris.org/2013/10/02/four-thoughts-kohs-defense-unilateral-humanitarian-intervention/>
- Response to Koh by Carsten Stahn: <http://opiniojuris.org/2013/10/08/guest-post-humanitarian-intervention-lawmaking-moments-law-counseling-caution-new-affirmative-de/>

- Koh's response to critics: <https://www.justsecurity.org/1863/syria-law-humanitarian-intervention-part-iii-reply/>
- Prof. Jose Alvarez on R2P and intervention, <http://www.globalpolicy.org/images/pdfs/0630schizo.pdf>
- Steven Groves, *The US Should Reject the UN R2P Doctrine*, <http://www.heritage.org/research/reports/2008/05/the-us-should-reject-the-un-responsibility-to-protect-doctrine>
- Should the UN Support the R2P Doctrine? <http://www.cfr.org/sovereignty/should-us-support-uns-responsibility-protect-doctrine/p16285>
- The full text of the original R2P doctrine, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*, <http://responsibilitytoprotect.org/ICISS%20Report.pdf>.

9) Oct. 31: Rights in Conflicts and Emergencies: A Glance at International Humanitarian Law

- *Derogation of rights*
- *International humanitarian law and its relation to human rights law*
- *Use of force in times of war and times of peace*
- *Case study on drone strikes*
- ***Guest speaker: Alex Moorehead, Director of the Counterterrorism, Armed Conflict and Human Rights Project, Columbia Law School***

Reading:

- ICCPR, Articles 4, 6, 7, 9, 10, 19.
- Geneva Convention 3 (POW), in particular Art. 2, 3, 4-5, 129, 130: <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e63bb/6fef854a3517b75ac125641e004a9e68>
- Geneva Convention 4 (Civilians), in particular 2, 3, 5, 42, 43, 146, 147, <http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>
- Daniel P. L. Chong, *Debating Human Rights*, Lynne Rienner Publishing 2014, Chapter 8: Does the War on Terrorism Require Restrictions of Rights?
- HAS IHRL 213-253 (emergencies and IHL), skim 266-306 (war on terror),
- UN Human Rights Committee, General Comment No. 29: Article 4 - Derogations during a State of Emergency, CCPR/C/21/Rev.1/Add.11 (2001), <http://www.refworld.org/docid/453883fd1f.html>
- David Luban, *Human Rights Thinking and the Laws of War*, in *Theoretical Boundaries of Armed Conflict and Human Rights* (ed. Jens David Ohlin, 2016), pp. 25-44. (online version available here: <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2486&context=facpub>)

Case study reading:

- Report of the Special Rapporteur on extrajudicial, summary, or arbitrary executions (Philip Alston), A/HRC/14/24/Add.6 (2010) <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>
- Mwatana Organisation for Human Rights & Open Society Justice Initiative, Death by Drone (2013), pp. 6-11 (Executive Summary), <https://www.opensocietyfoundations.org/sites/default/files/death-drones-report-eng-20150413.pdf> (feel free to read some of the case studies if interested)
- Statement of Farea al-Muslimi before the United States Senate Judiciary Committee Subcommittee on the Constitution, Civil Rights and Human Rights hearing on 'Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing,' (2013) <https://www.judiciary.senate.gov/imo/media/doc/04-23-13Al-MuslimiTestimony.pdf>
- Joint NGO Letter to President Obama on US Drone Strikes and Targeted Killings (2013), <https://www.hrw.org/news/2013/04/11/joint-letter-president-obama-us-drone-strikes-and-targeted-killings>
- President Obama's remarks at the National Defense University (May 2013), <https://obamawhitehouse.archives.gov/the-press-office/2013/05/23/remarks-president-national-defense-university>

Further reading:

- HAS IHRL 324-349 (torture and terror)

10) Nov. 7: No class (Election Day)**11) Nov. 14: Challenges and Critiques**

- **Panel with student presentations (4 groups)**
 - o *Feminist Approaches to International Law*
 - o *Third World Approaches to International Law (TWAIL)*
 - o *Critique by Stephen Hopgood*
 - o *Critical Thinking on Economic, Social and Cultural Rights / Human Rights & Poverty*
- **See Annex II for background, instructions and suggested readings for each group**

Required reading for all:

- HAS IHRL pp. 32-46 (philosophical underpinnings)

12) Nov. 21 Responsibilities of International Organizations

Note on current news item due

Case Study: Holding the UN Accountable: the Haiti Cholera Claims

Guest speaker: Beatrice Lindstrom, JD, Staff Attorney, IJDH

- *Context of Peacekeeping*
- *Focus on non-State actors and the responsibility of international organizations*
- *Immunity of international organizations and access to justice*
- *Strategies used by NGOs for accountability*

Reading:

- HAS IHRL pp. 445-454, 461-465 (please note the following additional readings for updates in particular regarding the WorldBank and Human Rights)
- Skim WorldBank Safeguards, adopted 4 August 2016, available at: http://consultations.worldbank.org/Data/hub/files/consultation-template/review-and-update-world-bank-safeguard-policies/en/materials/the_esf_clean_final_for_public_disclosure_post_board_august_4.pdf
- US Position on the Safeguards: <https://www.treasury.gov/resource-center/international/development-banks/Documents/US%20Position%20on%20the%20Review%20and%20Update%20of%20the%20World%20Bank's%20Safeguard%20Policies.pdf>
- Report by the UN Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, *The World Bank and Human Rights*, 2015, UN Doc. A/70/274
- Rick Gladstone, *United Nations Assailed in Report by Kosovo Rights Panel*, New York Times, July 13, 2016, available at: <http://www.nytimes.com/2016/07/14/world/europe/kosovo-human-rights-panel.html> (Link to Report mentioned: <http://www.nytimes.com/interactive/2016/07/13/world/europe/document-U-N-Panel-s-Report-on-Kosovo.html>)

Reading in preparations for Ms. Lindstrom's presentation:

- Transnational Development Clinic, Global Health Justice Partnership, Yale, and Association Haitienne de Droit de L'Environnement, *Peacekeeping without Accountability, The United Nations' Responsibility for the Haitian Cholera Epidemic*, 2013, https://www.law.yale.edu/system/files/documents/pdf/Clinics/Haiti_TDC_Final_Report.pdf
- José Alvarez, *The United Nations in the Time of Cholera*, AJIL Unbound, April 4, 2014, <https://www.asil.org/blogs/united-nations-time-cholera>
- Niels Blokker and Nico Schrijver (eds.), *Immunity of International Organizations* (Brill, 2015), Chapters 1 and 5
- IJDH Website: <http://www.ijdh.org/advocacies/our-work/cholera-advocacy/>

- Letter of allegation by several Special Procedures mandate-holders and responses (on CourseWorks, exchange consists of two letters and two responses)
- Amicus Curiae Brief from prominent international law scholars in support of Principal Appellate Brief, June 3, 2015, <http://www.ijdh.org/2015/06/topics/health/brief-of-international-law-scholars-and-practitioners-as-amici-curiae-in-support-of-plaintiffs-appellants-and-supporting-reversal/>

13) Nov. 28: A Glance at International Criminal Law and Accountability after Mass Atrocities

- *Individual criminal responsibility for mass atrocities*
- *From Nuremberg to the ICC (also ad-hoc tribunals and hybrid tribunals)*
- *Genocide, crimes against humanity, and war crimes*
- *Universal jurisdiction*
- ***Guest speaker: Sofia Candeias, Criminal Law and Judicial Advisory Service Department of Peacekeeping Operations, United Nations (tbc)***

Reading:

- Rome Statute of the International Criminal Court, Articles 1, 5-18, 20, 25, 27, 28, 55, 66, 67, 75, 120, <http://untreaty.un.org/cod/icc/statute/romefra.htm>
- HAS ILHR 952-961, skim 961-975 (ad hoc tribunals), 975-1003 (ICC), 1003-1023 (universal jurisdiction)
- William A. Schabas and Nadia Bernaz (eds.), Routledge Handbook of International Criminal Law, Chapters on Genocide, Universal Jurisdiction, and Human Rights
- The ICC at a Glance, available at: <https://www.icc-cpi.int/iccdocs/PIDS/docs/ICCAAtAGlanceEng.pdf>
- Marc Grossman, *American Foreign Policy and the International Criminal Court*, available at: <http://2001-2009.state.gov/p/us/rm/9949.htm> (official explanation of the US decision to “unsign” the Rome Statute)

Further reading:

- German Criminal Complaint Against Donald Rumsfeld et al, American Society of Int'l Law, <http://www.asil.org/insights/volume/10/issue/33/german-criminal-complaint-against-donald-rumsfeld-and-others>

14) Dec. 5: A Glance at the Law Protecting Refugees

- *Refugee Convention*
- *Non-refoulement*
- *Contemporary challenges*
- ***Exercise: Role Play***

Reading:

- Guy S. Goodwin-Gill, The International Law of Refugee Protection, in: The Oxford Handbook of Refugee and Forced Migration Studies
- James Hathaway, "Food Deprivation: A Basis for Refugee Status?" *Soc. Res.* 81, no. 2 (2014): 327-39
- B Docherty, T Giannini, 'Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees' (2009) 33 *Harvard Environmental Law Review* 349
- Senthorun Raj, *A/Effective Adjudications: Queer Refugees and the Law*, *Journal of Intercultural Studies*, 38 (2017), Issue 4, pp. 453-468

*****Final paper due: December 12*****

Annex I**Class on Oct. 3 on Self-Determination, Indigenous Peoples and Minorities**

We will have 4 panels à 20 minutes each. Each group / pair will have 10 minutes for their presentation and 10 minutes for questions and discussion with the entire class. It is essential that you stick to the allocated time so that everyone can participate. Your task is to present your topic to your classmates. Please bear in mind that they have not read the readings you have read. You will need to give an introduction to your topic highlighting the essential points that everyone in class should take away.

After all four presentations, we will open up the discussion for the entire class to identify tensions and complementarity of these concepts, including on collective and individual rights.

(Nb: The remaining groups of students present in the class on challenges and critiques.)

Reading on Self-determination:

- Brownlie, Section on States
- Richard A. Falk, *Revisiting the Right of Self-Determination*, in *Human Rights Horizons: The Pursuit of Justice in a Globalizing World* (Routledge 2002) pp. 97-125
- James Crawford, *The right of self-determination in international law: its development and future*, in: Philip Alston (ed.), *People's Rights* (OUP 2001)
- Patrick Macklem, *The Sovereignty of Human Rights* (OUP, 2015), Chapter 7: Self-Determination in Three Movements

Reading on the Rights of Indigenous Peoples:

- UN Declaration on the Rights of Indigenous Peoples (2007), http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

- Elsa Stamatopoulou, *Taking Cultural Rights Seriously: The Vision of the UN Declaration on the Rights of Indigenous Peoples*, in: Stephen Allen and Alexandra Xanthaki (eds.), *Reflections on the UN Declaration on the Rights of Indigenous Peoples* (Hart, 2011), pp. 387-412
- Lovelace v. Canada, <http://www1.umn.edu/humanrts/undocs/session36/6-24.htm>
- Ben Saul, *Indigenous Peoples and Human Rights, International and Regional Jurisprudence* (Hart, 2016)

Reading on the Rights of Minorities:

- Work by the UN Special Rapporteur on Minority Issues: <http://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/Annual.aspx>
- Bhinder v. Canada (Communication No. 208/1986, <https://www1.umn.edu/humanrts/undocs/session37/208-1986.html>)
- Joshua Castellino, *Global Minority Rights* (ed.) (Ashgate, 2012)
- Statement by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its visit to USA, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000&LangID=E>
- Human Rights Committee, *General Comment No. 23, The rights of minorities*, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.5&Lang=en

Reading on non-discrimination and equality:

- Sandra Fredman, *Substantive Equality Revisited*, I•CON (2016), Vol. 14 No. 3, 712-738
- Stephanie Farrior, *Equality and Non-Discrimination under International Law* (2015). *EQUALITY AND NON-DISCRIMINATION UNDER INTERNATIONAL LAW*, Stephanie Farrior, ed., Ashgate Publishing, 2015; Vermont Law School Research Paper No. 3-15. Available at SSRN: <http://ssrn.com/abstract=2578279> (and other contributions in that volume)
- UN Committee on Economic, Social and Cultural Rights, *General Comment No. 20 on non-discrimination*, 2009, E/C.12/GC/20
- Human Rights Committee, *General Comment No. 18: Non-discrimination*, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6622&Lang=en

Annex II

Class on Nov. 14 on Challenges and Critiques

International human rights law faces significant challenges and critiques from different perspectives. Some ask: Does international human rights law have any impact? Is it effective? Has the international human rights movement reached its apex? Other commentators ask: Does international human rights law reflect

subaltern views? Does it reflect and integrate feminist views? Yet another set of critiques focuses specifically on economic, social and cultural rights and questions their status as legal, justiciable rights.

We will address these and some other critiques and challenges in this class. Students will prepare presentations in group or pairs. Each group (or panel in the classroom) will present and discuss one area of fundamental critique, some responses and some of their own views before opening up the discussion to the class.

We will have 4 panels à 20 minutes each. Each group / pair will have 10 minutes for their presentation and 10 minutes for discussion with the entire class. It is essential that you stick to the allocated time so that everyone can participate. Your task is to present your topic to your classmates. Please bear in mind that they have not read the readings you have read. You will need to give an introduction to your topic highlighting the essential points that everyone in class should take away.

(Nb: The remaining groups of students have presented in the class on self-determination and minorities.)

1) Critique by Stephen Hopgood

- Stephen Hopgood, *The Endtimes of Human Rights* (Cornell University Press, 2013)
- Different positions on Hopgood's book:
<http://www.leiden.amnesty.nl/attachments/article/152/2014-07,%20Debating%20the%20endtimes%20of%20human%20rights%20-%20Activism%20and%20institutions%20in%20a%20Neo-Westphalian%20world.pdf>
- Debate on openGlobalRights,
<https://www.opendemocracy.net/openglobalrights/emerging-powers-and-human-rights>

2) Third World Approaches to International Law (TWAIL)

- Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, Harvard International Law Journal 42:1 (Winter 2001), pp. 201-245
- Rajagopal B, *International law from below: Development, social movements, and Third World resistance, Part III Decolonizing resistance: human rights and the challenge of social movements*, pp. 163-232 (Cambridge University Press, 2003)
- BS Chimni, *Third World Approaches to International Law: A Manifesto* (2006) 8 International Community Law Review 3.
- Nyamu, Celestine, *How Should Human Rights and Development Respond to Cultural Legitimization of Gender Hierarchy in Developing Countries?*, Harvard International Law Journal 41(2) (2000)

3) Feminist Approaches to International Law

- Hilary Charlesworth, Christine Chinkin and Shelley Wright, *Feminist Approaches to International Law*, *The American Journal of International Law*, Vol. 85, No. 4 (Oct., 1991), pp. 613-645
- Series of Comments on IntLawGrrls:
<http://www.intlawgrrls.com/search/label/feminism%20series>
- Christine Chinkin, Shelley Wright, and Hilary Charlesworth, *Feminist approaches to international law: reflections from another century*, in: Buss, Doris and Manji, Ambreena (eds.) *International Law: Modern Feminist Approaches* (Hart, 2005), pp. 17-47.
- Karen Engle, *International Human Rights and Feminisms: Where Discourses Keep Meeting*, in: *International Law: Modern Feminist Approaches*, edited by Doris Buss and Ambreena Manji, 47–66 (Hart, 2005)
- Sally Engle Merry, Mihaela Serban Rosen, Peggy Levitt, & Diana H. Yoon, *Law from Below: Women's Human Rights and Social Movements in New York City*, 44 *Law & Society Review* 101 (2010), available at:
<http://www.law.uvic.ca/demcon/2012%20readings/Sally%20Merry%20et%20al%20-%20Law%20from%20Below.pdf>
- Ratna Kapur, *Precarious desires and ungrievable lives: human rights and postcolonial critiques of legal justice*, *London Review of International Law*, (2015) 3 (2): 267-294
- D. Otto, *Feminist Approaches to International Law*, Oxford Bibliographies, 2012
- See also: Feminist rewriting of judgments:
<http://sites.temple.edu/usfeministjudgments/> (US Project with links to other projects)

4) Critical Thinking on Economic, Social and Cultural Rights / Poverty

- Daniel P. L. Chong, *Debating Human Rights*, Chapter 12, Lynne Rienner Publishing 2014
- Aryeh Neier, *Social and Economic Rights: A Critique*, *Human Rights Brief* 13, no. 2 (2006): 1-3
- Aryeh Neier, *The International Human Rights Movement: A History* (Princeton, N.J.: Princeton University Press, 2012) pp. 56-86
- Marius Pieterse, 'Eating Socioeconomic Rights: The Usefulness of Rights Talk in Alleviating Social Hardship Revisited' (2007) 29 *Human Rights Quarterly* 796-822
- Onora O'Neill, *The Dark Side of Human Rights*, *International Affairs* 81, 2 (2005) 427-439
- Susan Marks, *Human Rights and Root Causes*, *Modern Law Review* 74.1 (2011): 57–78

Annex III

Guidance on Analytical Paper

For your paper, you can choose any judgment, decision, opinion or view you're interested in. It could be from a domestic or international court, a human rights mechanism, the World Bank Inspection Panel or any other body that addresses human rights questions in a particular case.

The focus is on the analysis of the case. You'll have to set out the facts of the case and the decision very briefly, but the main focus of your paper is on analyzing the decision:

- What human rights arguments were used in the case?
- To what extent has the court / body taken up the human rights arguments made by the parties?
- Did amici curiae play a role in the case?
- How does the decision fit into the broader context of developments around that particular human rights issue?
- What are critiques of the decision?
- What has the decision's impact been so far? Positive and/or negative? What is the likely impact in the future?
- How do you assess the decision in terms of ensuring the protection of human rights?

To be able to answer these questions you'll have to start with a (careful!) reading of the entire decision. You'll also have to read secondary literature, comments on the decision and articles that place it in a broader context. While you do that, you'll very likely have to re-read at least portions of the original decision. In particular, when dealing with domestic judgments, you might also want to read the judgments in the lower instances. All that will help you in developing your analysis and assessment of the decision you have chosen in the framework of human rights.

The writing process:

- Please structure your paper in a logical way. There is no standard structure, but you'll need to find a logic to it.
- Please make sure that you avoid repetition. You can allude to some points you'll make later in the introduction and/or you can take certain points up again in the conclusion, but they should not appear twice in the body of your paper.
- Find your own way of writing. Some people structure everything in their head and then write it down coherently. Others (including myself) start typing bits and pieces and then move ideas around until they are satisfied and have found a coherent way of making an argument. In any case, the final version is likely to require several rounds of revisions until you're satisfied with the structure, logic, and wording.
- Think about your reader. Put yourself in her/his shoes and explain what needs explanation. Don't make the assumption that the reader automatically agrees with you. You need to convince her/him.

- Follow the rule: One paragraph, one idea.
- When you write a 15-page paper, your draft might have 25 or more pages at some point. Most texts benefit from cutting and condensing. Cut unnecessary words, cut repetitions, cut ideas that you don't need to make your arguments.
- Please use footnotes for citations ([Chicago Style](#)) with a full list of references at the end. Please do not use endnotes.

The following should be self-evident, but...

- Use the spell-check. Proof-read your paper before submitting. Typos are distracting when reading and make it more difficult to follow your arguments.
- Use short sentences. Don't make them more complex than necessary.
- Make sure that your sentences are complete.
- Write concisely and clearly.
- Avoid passive voice as much as possible; make clear who the subject in your sentence is; avoid starting sentences with "it" (as in: "It has to be taken into account that...")

I look forward to reading your papers, hearing your presentations, and discussing human rights with you in class!