

International Human Rights Law Syllabus

Spring Semester, 2016; Course Listing: CAS IR 306

Lecturer Information

Lecturer

Marcus Gatto, B.A., M.A., J.D.

Email

marcusgatto@outlook.com

Office Location & Hours

Boston University—DCU Office
By Request

Class Time and Location

January 26th - March 1st

Tuesdays, 2:00-5:00 PM

Room: CAG21

March 18th - April 15th

Fridays, 10:00 AM-1:00 PM

Room: CAG21

Exception: Week 10 (See Calendar)

Final Class: April 20th

Wednesday, 7:00-10:00 PM

Room: CAG21

General Information

Course Overview

The purpose of this module is to examine the history, development, structure and efficacy of international human rights law. In this module, students will investigate the legal framework of the United Nations and regional systems relating to the protection and promotion of, *inter alia*, the rights of minorities and indigenous peoples, women's rights, the rights of migrants and refugees, cultural rights, and the emerging field of environmental rights. Students will assess the remedies that exist for violations of human rights law in the various systems and examine practical case studies where relevant. This module provides a platform through which students can explore international human rights norms thematically. Reference will be made throughout the course to the Irish context.

Learning Outcomes

On completion of the course the students will be able to:

- Compare the international human rights law system and regional human rights law systems;
- Evaluate the various mechanisms and procedures for human rights law enforcement;
- Critically assess specific areas of international human rights law with reference to relevant legal instruments and contemporary cases;
- Draft a legal document in the form of a submission, reasoned opinion, declaration or resolution concerning a specific area of human rights.
- Acquire basic competency in legal writing and research.

Teaching Methodology

Class time will be used for a combination of lectures, discussions, and group exercises. Participation is very important in this module. Students will be asked to explain readings and concepts, to offer analysis of cases and to express their opinion.

Assignments and Grading

Further details on the assignments will be distributed during lectures and discussed. Opportunities for questions about the assignments will be given during the course. Your grade for the course will be based on your work as follows:

Attendance & Participation:	20%
Presentation:	15%
Essay assignment:	35%
Final Examination:	30%

The presentation will be given during one of the lectures. The presentation should last 15 minutes.

Assignment details are distributed at the end of week five. The essay should be approximately 2,000 words long. Essay requirements will be distributed with the essay titles.

For the exam you are required to comprehensively answer two questions - excluding the specific topic addressed in your essay.

Course Materials

Required Text (Available For Lending at BU/DCU Library):

Rhona K.M. Smith, *Textbook on International Human Rights*, (6th edn, OUP 2014).

Complementary Readings:

Ilias Bantekas and Lotz Oette, *International Human Rights Law and Practice*, (CUP 2013).

Philip Alston and Ryan Goodman, *International Human Rights*, (OUP 2012).

Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran, and David Harris (eds), *International Human Rights Law*, (OUP 2013).

Philip Alston (Author), Ryan Goodman (Author), Harry J. Steiner (ed), *International Human Rights in Context: Law, Politics, Morals*, (3rd edn, OUP 2007).

Mashood Baderin and Robert McCorquodale (eds), *Economic, Social and Cultural Rights in Action*, (OUP 2007).

James Nickel, *Making Sense of Human Rights*, (Wiley-Blackwell 2007).

Ian Brownlie and Guy Goodwin-Gill, *Brownlie's Documents on Human Rights*, (5th edn, OUP 2006).

Andrew Clapham, *Human Rights Obligations of Non-State Actors*, (OUP 2006).

Jack Donnelly, *Universal Human Rights in Theory and Practice*, (Cornell University Press 2003).

Micheline R. Ishay, *The History of Human Rights: From Ancient Times to the Modernization Era*, (University of California Press 2004).

Christian Tomuschat, *Human Rights: Between Idealism and Realism*, (3rd edn, OUP 2003).

Plagiarism Notice:

It is the responsibility of every student to read the Boston University statement on plagiarism, which is available in the Academic Conduct Code. Students are advised that the penalty against students on a Boston University program for cheating on examinations or for plagiarism may be "[...] expulsion from the program of the University or such other penalty as may be recommended by the Committee on Student Academic Conduct, subject to approval by the Dean."

N.B.: Students MUST retain an electronic copy of all essays submitted for assessment.

Course Schedule

For each topic, please read the specified chapter in the required text. Additional reading, from the complimentary materials list, or such as articles together with links to relevant websites will be made available on The Loop one week in advance of each class. PowerPoint presentations will also be available two days prior to the class and it is recommended that students print out/access these presentations and have them electronically or physically available in class.

Detailed Schedule:

Class	Topic/Preliminary Reading	Description
1	Human Rights, Historical Context, Development, and Institutions <i>Smith: Chapter 2 (Pages: 5-25)</i>	This class will focus on the inception and promulgation of human rights. This topic will examine the development of international human rights regimes prior to, and after, World War II. It will also trace the ideologies of national sovereignty and the burgeoning notion of an international community, commencing with the League of Nations, through the experiences of World War II, and onwards to the creation of the United Nations. Finally, it will examine rival philosophical bases for the derivation of rights: universality versus cultural relativity.
2	The United Nations Treaties and Institutions; Overview of Select Regional Systems <i>Smith: Chapter 3 (Pages 26-36)</i> <i>Chapter 4 (Pages 37-51)</i>	This topic will examine the United Nations Charter and its role in governing international relations. It will also examine key international legal instruments which have issued from the UN and its various branches. Particular attention will be given to “dualist” nations such as Ireland and the difficulty of enforcing human rights in this circumstance. We will also review the UN institutions and their impact on the protection of human rights. Of note among these institutions are the Security Council, the International Court of Justice, and the International Criminal Court. To conclude, we will examine regional legal regimes for the protection and promotion of human rights.
3	The Right to Life <i>Smith: Chapter 13 (Pages: 217-234)</i>	Field Trip: Kilmainham Gaol This topic will examine the central and paramount human right: the right to life. We will consider what obligations—be they positive or negative—the right to life may impose upon the state. We will examine with particular care the death penalty and the “right to die”.
4	The Right to be Free from Torture, Inhuman, and Degrading Treatment <i>Smith: Chapter 14 (Pages: 217-235)</i>	Field Trip: Criminal Courts of Justice This section will examine the seemingly universally agreed prohibition of torture. We will also discuss whether or in what circumstances torture can ever be morally permissible in certain emergency circumstances (<i>e.g.</i> , to protect innocent life from imminent threat).
5	Social and Economic Rights <i>Readings will be posted on The Loop</i>	During this topic, we will distinguish social and economic rights from civil and political rights, with reference to different regional and domestic systems, and the levels of protection afforded to these categories of rights.
6	Freedom of Expression/Minority Rights <i>Smith Chapters 18 & 21</i>	For this section, we will examine, in the first instance, international, regional and domestic regimes protecting the liberty of expression. Conversely, we will also examine how

Class	Topic/Preliminary Reading	Description
		the definition of protected/unprotected speech and expression can vary according to jurisdiction. In the second instance, we will critically examine specific protections in law for cultural, linguistic and other minorities.
7	No Class	Mid-Semester Break
8	The Human Right to Health and Guest Lecture on the Human Right to Health and the operation of Criminal Law as an adjunct or impediment to its realization <i>Readings will be posted on The Loop</i>	During this topic, we will examine the human right to health in international law and the positive obligations upon states, in view of respecting, protecting and fulfilling this right. The guest lecture will speak about the desirability, <i>vel non</i> , of criminalizing the transmission of HIV with deference to the dignity and rights of those living with HIV; in addition, the guest will speak to the treatment of narcotics addiction in conjunction with the right to health of the persons living with addiction.
9	Rights of Refugees and Asylum Seekers <i>Smith: Chapter 22 (Pages: 382-387)</i>	For this topic, we will outline the legal criteria for refugee status and the <i>lacunae</i> within existing legal frameworks. It also examines the direct provision system in Ireland.
10	Women's Rights in International Human Rights Systems <i>Smith: Chapter 22 (Pages: 371-376)</i>	In this section, we will focus on distinct elements of women's rights in domestic and international legal regimes, including access to education and property rights, domestic, patrimonial, and sexual violence, contraception and abortion, with a view to the right of self-determination.
11	International Environmental Law and Human Rights Regimes. <i>Smith: Chapter 23 (Pages: 395-396)</i>	In this section, we will examine emergent issues at the nexus of international human rights law and environmental protection, including the proposed right to a healthy environment.
12	In Class Presentations	Students will present reports on designated topics, followed by questions and discussion as time permits.
13	Monitoring, Remedies & Enforcement Mechanisms/Final Class Revision <i>Smith: Chapter 10 (Pages 153-179)</i>	In this session, we will examine monitoring systems, as well as remedies and enforcement mechanisms which are available to governments, civil society organizations, and private individuals. This class will conclude with a thematic revision of the course.

Exam/Assignments Schedule

Date	Subject
02/09/2016	Essay Topics Distributed.
03/01/2016	Essays Due.
03/18/2016	Presentation Topic Distributed.
04/15/2016	Presentation Date.
04/22/2016	Final Examination.