

University of St. Andrews

School of International Relations

IR 4515 HUMAN RIGHTS IN
THEORY AND PRACTICE

Dr. Chandra Lekha Sriram

Semester 2, 2004/5

IR 4515

Human Rights in Theory and Practice

This is a senior honours module in international relations. It is designed to build on subhonours courses in international relations, as well as on related junior honours modules such as International Relations and International Law (IR3022) and International Regimes (IR 3006). As such, the readings will address the core documents in international human rights and humanitarian law, as well as key theoretical debates about human rights, before turning to specific instances of human rights enforcement, through institutions such as the European Court of Human Rights and the International Criminal Court.

The module will begin with basic questions such as ‘what are human rights?’ before turning to the conceptual difficulties surrounding the universality of rights and the political nature of rights. It will then ask ‘how are human rights protected and humanitarian law enforced in practice?’

Learning Outcomes

This module aims to cultivate:

- 1) a clear understanding of the key documents in international human rights and humanitarian law
- 2) a clear understanding of the key disputes surrounding the validity, content, and legitimacy of human rights
- 3) a clear understanding of how human rights and international humanitarian law have been protected and enforced [or have not been] in practice

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Office Hours: Tuesdays, 3-5 pm

Lectures: School I, Wednesdays, noon

Lecture Topics

There is one lecture per week.

Week 1: What are 'human rights' and how did they evolve?

Week 2: Human Rights in International Relations: The challenge of realism

Week 3: Why human rights? Some challenges to the orthodoxy

Week 4: Second and third generation rights

Week 5: Whose human rights? Relativism and 'Asian Values' debates

Week 6: Domestic practice: Transitional justice

Week 7: Regional practice: The ECHR and the IACHR

Week 8: International practice I: Ad hoc tribunals, the ICC, and mixed tribunals

Week 9: International practice II: Transnational practice through universal jurisdiction and other means

Week 10: New actors, shifting obligations? Armed groups and corporations as subjects of human rights litigation

Week 11: The future of human rights

Seminars/Tutorials

Attendance at weekly tutorials is compulsory. You should, in order to achieve the learning outcomes specified above, prepare thoroughly for tutorials.

Sign-up sheets for tutorials will be posted on the noticeboard outside room 14.

This module represents half of your total workload for the semester. A diligent student should expect to study 15-20 hours per week to be properly prepared.

ADMINISTRATIVE MATTERS

A. PERMISSION TO PROCEED, 2004-2005

The Permission to Proceed (PTP) sets out those conditions that need to be satisfied if a student is to gain credit for a module.

1. Attendance

- Students are expected to attend all lectures, and are required to attend all tutorials associated with the module they are enrolled in. Students must provide the tutor with good reasons for their absence from a tutorial within five working days of the class.
- Medical self-certification will be accepted as a legitimate reason for absence, *but will be monitored*. Students who submit more than two such certificates in a semester will be referred to Student Support Services. Forms are either available from the Academic Registry, Room B12, Old Union Building, 79 North Street, or electronically from www.st-andrews.ac.uk/registry/forms.shtml
- Permission to Proceed will be withdrawn without prior warning if a student misses more than two tutorials without permission.
- Missing the exam will lead to the loss of your PP. Students must report immediately (even if unable to report in person) any absence from examination to the Faculties Office and submit an appropriately completed self-certification for absence form within five working days of the examination.

2. Submission of course work and penalties for late submission

- Permission to Proceed will be withdrawn if a student fails to submit all written course work;
- Penalties for unexplained late submission of work due as part of continuous assessment are as follows: such work shall be penalised by the deduction of one point on the 20-point scale for each working day that it is submitted late up to ten working days. After that it will not be marked but submission (by no later than 5pm on Friday 9th January in the first semester and 5pm on Monday 10th May in the second) will be required for maintenance of your PP and the right to sit examinations.

3. Appeals

- If students believe the deductions on course work to be unjustified or that special circumstances have not been taken into account they should in the first instance speak with their tutor or year co-ordinator, and if they are still not satisfied should direct written appeals to the School's Director of Teaching within five working days of the return of the work.
- Appeals concerning the withdrawal of PPs should be directed in writing to the Head of School within five working days of receiving notification.

4. Performance thresholds

- In order to keep the PP a student must have a minimum mark of 1 for every piece of work, and demonstrate a serious attempt to secure a grade of 5 in course work. A minimum acceptable standard for an examination is a grade of 5.

B. Participation: in order to get the most out of the module you are expected to prepare thoroughly for each tutorial and, given the relative short length of each semester, you should start work in Week 1. Remember this module should represent approximately half of your workload and therefore a well-prepared student might be expected to study this subject for 15-20 hours each week.

C. Assessment

The work of the module will be assessed on the following basis:

Essays

Students are required to submit one 5000-word substantive essay, which will constitute 50% of the final grade. Topics will be provided in class; if students wish to deviate from those topics they may do so after consultation by third week. *All students, whether they are writing to a set paper question or one of their own device, must submit an essay plan (1-2 pages) by Monday of week 5.* Students are also required to draft one short (500 words) memo for presentation in seminar over the course of the module, and act as discussants in class once. Students are to email the memos to all students in the tutorial in advance of the relevant session. *These are not assessed but are required.*

Essays should be typed or word-processed. They should include a title page with the student's name, the title of the module and the tutor's name, the question being addressed, and the date of submission.

Essays must have proper documentation of sources, accurate footnotes, and a full bibliography. They should be *double spaced*, printed on one side of the paper, and have wide margins to allow space for marking. A *Tips for Essay Writing* guidance memo is available on the module website and at the end of this module booklet.

You must submit *two hard copies* of the essay.

Essay Deadline:

Monday, Week 5: 7 March 2005, 5 pm: essay plans due

Monday, Week 10: 25 April 2005, 5 pm: essays due

Essays should do the following:

- Make reference to an issue, theoretical or substantive, that has been covered in the module, and pose a clear question or hypothesis. Students may create their own questions, but must do so in consultation with Dr. Sriram, or choose from a list of specified questions.
- Examples of fruitful topics include:
 - Are human rights universal?
 - Compare and explain the development of the ECHR and the IACHR
 - Is international criminal justice effective? Why or why not?
- make use of the module readings, though not exclusively
- constitute a significant original research effort by the student
- make a clear argument and support it with specific references

Essays are assessed and marks awarded according to the following criteria:

- relevance to question
- sound ordering and structuring of material
- quality and clarity of written presentation
- effective use of evidence
- demonstration of sound understanding of the topic
- adequacy of research
- adequacy of analysis
- identification of major themes and arguments
- critical evaluation and judgment
- range of sources used
- insight and originality

The marking of essays is on a 20-point scale on which 5 is the pass mark. The Honours marking scheme is as follows: 0: Unclassified; 1-4: Fail; 5-7: Pass; 8-10: Third; 11-13: Lower Second; 14-16: Upper Second; 17-20: First

Meeting these assessment requirements will be essential for the maintenance of your Permission to Proceed.

Unauthorised late submissions will be penalised as set out in the Permission to Proceed statement. Essays at honours level should be word-processed, and remember to back up all your work.

Please note that, as a general rule, extensions are only given in cases of ill-health or where personal problems may have interfered with your work. Your political involvement, sporting activities and social life should be organised around your studies, not the other way round. It should be noted that letters from the Assistant Director of Student Support Services regarding problems affecting your performance do not give any automatic rights to repeated extensions and special treatment. All requests for extensions should be made to the module tutor in the first instance and except in unusual circumstances prior to the essay deadline. Given the tendency of computers and printers to overload at essay deadline time, it is recommended that you should save all work and not leave it till the last minute. Computer failure does not constitute an excuse for late submission.

If there are students with ongoing **special needs** they should identify themselves to the tutor so that ways can be found to facilitate their learning activities. The School Disability Coordinator is Mrs Fiona Oviatt, who can be contacted via the School Office (462938, or fo@st-and.ac.uk). You should, of course, feel free to raise any needs you may have with the module tutor or co-ordinator.

Return of written work: it is School practice to return written work within no more than 3 weeks of submission.

All students have the right to query the mark awarded to them on essays and other work submitted as part of the School's policy of continuous assessment. The procedure for requesting this is as follows:

- the student should in the first instance consult the instructor who awarded the mark immediately upon the essay's return; if any discrepancy or disagreement remains, the student can lodge an appeal. This must be made in writing within five working days of the essay's return to the relevant year co-ordinator or, if the student wishes, to the Director of Teaching. The appeal must state clearly the reason for requesting remarking and the specific objections to the mark awarded;
- after consulting the Head of School a decision will be taken as to whether there exist appropriate grounds for having the essay remarked by another member of the teaching staff;
- students are advised that upon remarking grades may be adjusted down as well as up.

D. Plagiarism, as defined in the School handbook, is viewed seriously. If a module tutor has grounds for suspecting that passages in an essay have been plagiarized, he or she will refer the matter to the School's Plagiarism Adjudication Board (consisting of three staff

members of the School) which will investigate and make a judgement on whether there has been plagiarism and on its extent. If plagiarism is found, the Board can either exact a serious penalty in terms of marks deducted (down to zero) or refer the matter to the University. The student has the right of appeal to the Senate of the University. The university has adopted the following statement on plagiarism.

"The University awards degrees and other qualifications as a recognition of the student's own performance during the course of studies. All work submitted for assessment, therefore, must be the product solely of the student concerned. Any breach of this principle is an act of academic fraud and will be treated as a serious offence. The core of fraud is to deceive, and that deception can be practised in several ways:

A Plagiarism. By this is meant the unacknowledged citing of published works, or of theses or dissertations submitted by a second person for a degree.

B Copying. The use of material from a source which cannot be acknowledged.

C Falsification. The presentation of a set of data created by the student and presented as a result of work reported to have been carried out by the student"

The student should note that the "unacknowledged citing of published works" includes extracting text from the internet. The student should be warned that there are techniques available to tutors for detecting acts of plagiarism from the internet.

The best protection is to ensure rigorous adherence to the academic standard associated with citation and bibliography given in the Red Policy Booklet.

Readings and sources

In addition to required readings, background and recommended readings are listed in this syllabus. Background readings should be read at least in part by students less familiar with the underpinnings of a given week's discussion; recommended readings are included for students who wish to delve further on a given week's topic, or to help develop a paper topic.

Required readings are available in several ways: many of the books are available through short loan, and most articles are available in triplicate through short loan. Articles that are available electronically are not offered in paper copy through short loan, as they can be accessed through the library website on JSTOR or through Expanded Academic ASAP. Links to articles are also available on the course website, https://elmer.st-andrews.ac.uk/SCRIPT/2004_05_S2_IR4515/scripts/serve_home, or <https://elmer.st-andrews.ac.uk>, which will be accessible to all registered students.

A great number of resources are available online, particularly through the website of the American Society of International Law, www.asil.org. Students are strongly advised to read the news on a regular basis, such as the New York Times online www.nytimes.com, or on the BBC online: www.bbc.co.uk as well as to examine the websites of relevant international institutions closely, such as that of the United Nations: www.un.org; the Organization of American States: www.oas.org; the African Union: <http://www.africa-union.org/>; the *ad hoc* criminal tribunals for the former Yugoslavia and for Rwanda: <http://www.un.org/icty/> and <http://www.ictt.org/>; and the permanent International Criminal Court: <http://www.un.org/law/icc/>; to name a few. Relevant international NGOs will also have information of interest, such as Human Rights Watch: www.hrw.org,

Amnesty International: www.amnesty.org, and the Coalition for An International Criminal Court: www.iccnw.org. Links to these and other websites, as well as additional documents of note, are available on the module website.

LECTURES

Please note that this module does not have any required book purchases, but relies largely on articles and book chapters, available either on short loan or through the WebCT site electronically. However, if you wish to purchase a book, you may choose to buy the sourcebook listed below, or one of several texts upon which we rely heavily, such as Donnelly, Forsythe, or Dunne and Wheeler.

A useful source book for this course will be:

Steiner and Alston, *International Human Rights in Context* (OUP, 2000)

Week 1: What are ‘human rights’ and how did they evolve?

Required readings

- Key human rights conventions and declarations [links on WebCT]:

Universal Declaration of Human Rights.
International Covenant on Civil and Political Rights
International Covenant on Economic, Social, and Cultural Rights
Torture Convention
Genocide Convention
Convention for the Elimination of Discrimination against Women
Convention on the Rights of the Child
Convention for the Elimination of all forms of Racial Discrimination

- Key international humanitarian law documents:

Geneva Conventions (1949) on the laws of war, all four
Additional Protocols to the Geneva Conventions (1977), both.

Status of ratifications of key human rights instruments:

<http://www.unhchr.ch/pdf/report.pdf>

- Secondary sources:

Tim Dunne and Nicholas Wheeler, eds., *Human Rights in Global Politics*, chapter 1. [short loan]

Jack Donnelly, *Universal Human Rights in Theory and Practice* chp. 1 [short loan].

Christof Heynes and Frans Viljoen, “The Impact of the United Nations Human Rights Treaties on the Domestic Level,” *Human Rights Quarterly* vol. 23 (2001) [short loan].

Recommended readings:

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

Yusuf Aksar, *Implementing International Humanitarian Law: From the Ad Hoc Tribunals to a Permanent International Criminal Court* (Routledge, 2004)

Steiner and Alston, *International Human Rights in Context*.

Richard Falk, *Human Rights Horizons* (New York: Routledge, 2000), chapters 1-2.

Dunne and Wheeler, *Human Rights in Global Politics*, generally.

David Forsythe, *Human Rights in international relations*, generally.

Week 2: Human Rights in International Relations: The Challenge of Realism

Required readings:

Jack Donnelly *Realism and international relations*, Introduction, chapter 1, conclusion [book on short loan].

David Forsythe, *Human rights in international relations*, introduction and chapter 9 [short loan]

Gary Bass, *Stay the hand of vengeance: The politics of war crimes tribunals*, introduction and conclusion. [short loan].

Andrew Moravcsik, "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe," *International Organization*, vol. 54, no. 2 (Spring 2000). [short loan].

Mahmood Monshpouri, Review essay of Donnelly and Forsythe books, *Human Rights Quarterly* vol. 23 (2001) pp. 213-227 [short loan].

Recommended readings

Jack Donnelly, *Universal human rights in theory and practice*.

Jean Galbraith, "The Bush Administration's Response to the International Criminal Court," *Berkeley Journal of International Law* vol. 26 (2003) [short loan].

Week 3: Why human rights? Some challenges to the orthodoxy

Michael Ignatieff, *Human Rights as Politics and Idolatry* introduction, chapters 1 and 2 [short loan].

Stephen Lukes, "Five Fables about Human Rights," in Stephen Shute and Susan Hurley, eds., *The Oxford Amnesty Lectures 1993* [short loan].

Tim Dunne and Nicholas J. Wheeler, *Human Rights in Global Politics*, Chapter 3 [short loan]

Julie A. Mertus, *Bait and Switch: Human Rights and US Foreign Policy*, Chapters 1 and 2 [short loan].

Recommended readings:

Kirsten Sellars, *The Rise and Rise of Human Rights* (Sutton Press, 2002)

Costas Douzinas, *The End of Human Rights* (Oxford: Hart Publishing, 2000).

Amartya Sen, *Development as Freedom*.

Mertus, *Bait and Switch* remainder.

Ignatieff, *Human Rights as Politics and Idolatry* remainder.

Week 4: Second and third generation rights

Claims about economic, cultural-social rights, group rights and so-called solidarity rights.

Required readings

Carl Wellman, "Solidarity, the Individual, and Human Rights," *Human Rights Quarterly* vol. 22 (2000) [short loan]

Philip Alston, "A third generation of solidarity rights: Progressive development or obfuscation of international human rights law?" *Netherlands International Law Review* vol 29 (1982) [short loan].

Rachel Murray and Steven Wheatley, "Groups and the African Charter on Human and Peoples' Rights," *Human Rights Quarterly* vol. 25(2003) [short loan].

Peter Jones, "Human Rights, Group Rights, and Peoples' Rights," *Human Rights Quarterly* vol. 21 (1999) pp. 80-107 [short loan].

Jack Donnelly, *Universal Human Rights in Theory and Practice*, chapter 12 [short loan]

Jeremy Waldron, "Can communal goods be human rights?" in *Liberal Rights: Collected Papers 1981-1991* [short loan].

Recommended readings [many deal with liberal multiculturalism or communitarianism, but focus on individual vs. group rights and claims]:

Will Kymlicka, ed., *The Rights of Minority Cultures* (Oxford: Oxford University Press, 1995).

Jacob T. Levy, *The Multiculturalism of Fear* (Oxford: Oxford University Press, 2000).

Yael Tamir *Liberal Nationalism* (Princeton: Princeton University Press, 1993).

Michael Walzer, *Spheres of Justice* (USA: Basic Books, 1983).

Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1996).

Week 5: Whose human rights? Relativism and Asian Values debates

Tim Dunne and Nicholas J. Wheeler, *Human Rights in Global Politics*, Chapter 4 [short loan]

Jack Donnelly, *Universal Human Rights in Theory and Practice* chapters 6 and 7 [short loan]

Fareed Zakaria, "Culture is destiny: a conversation with Lee Kuan Yew," *Foreign Affairs* vol. 73 no. 2 (March-April 1994) at:
http://web1.infotrac.galegroup.com/itw/infomark/663/203/49207754w1/purl=rc1_EAIM_0_A14895816&dyn=3!xrn_3_0_A14895816?sw_aep=stand

Bangkok declaration on human rights (1993)
http://www.regency.org/human_rights/bangkok_declaration.pdf

Government of the People's Republic of China, White paper on human rights, at <http://www.chinesehumanrightsreader.org/governments/91wp/91hr-wp.html>

Martha Nussbaum, "In Defense of Universal Values," *Idaho Law Review* 36 (2000), 379-448. [short loan]

Elizabeth M. Zechenter, "In the name of culture: cultural relativism and the abuse of the individual," *Journal of Anthropological Research* vol. 53 (1997) [short loan].

Recommended:

Fred Dallmayr, *Achieving Our World*, chapter 3.

Joanne R. Bauer and Daniel A. Bell, *The East Asian Challenge for Human Rights*.

Mashood A. Baderin, *International Human Rights and Islamic Law*.

Susan Moller Okin "Is Multiculturalism Bad for Women?" at <http://www.bostonreview.net/BR22.5/okin.html>

David Westbrook, "Islamic International Law and Public International Law" *Virginia Journal of International Law* vol. 33 (1993), pp. 819-897. [short loan]

Henry Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy*.

Amartya Sen *Development as Freedom*.

Sonia Harris-Short, "International Human Rights Law: Imperialist, Inept, and Ineffective? Cultural Relativism and the UN Convention on the Rights of the Child," *Human Rights Quarterly* vol. 25 (2003) [short loan].

George Kateb, "Notes on pluralism" *Social Research* vol. 61, no. 3 (1994).
http://infotrac.galegroup.com/itw/infomark/320/231/49208039w1/purl=rc1_EAIM_0_A15853261&dyn=38!xrn_483_0_A15853261?sw_aep=stand

Week 6: Domestic practice: Transitional Justice

Priscilla Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (2001), chapters 1-4. [short loan].

Chandra Lekha Sriram, *Confronting past human rights violations: Justice vs. peace in times of transition* (London: Frank Cass, 2004), introduction, chapters 1 and 2.

Robert I. Rotberg and Dennis Thompson, eds., *Truth v. Justice: The Morality of Truth Commissions* chapters 1 and 2. [short loan]

Naomi Roht-Arriaza, ed., *Impunity and human rights in international law and practice* (1995), chapters 1-4. [short loan].

Chandra Sriram, "Truth commissions and political theory: tough moral choices in transitional situations," *Netherlands Quarterly of Human Rights* vol. 18, no. 4 (2000). [short loan]

Ruti Teitel, *Transitional justice* chapters 1 and 7 [short loan].

Ellen Lutz and Kathryn Sikkink, "The Justice Cascade: The Evolution and Impact of Foreign Human Rights Trials in Latin America," *Chicago Journal of International Law* vol. 2 (2000) [short loan].

See also resources from the International Center for Transitional Justice www.ictj.org, link also on WebCT.

Recommended:

Diane Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime," *Yale Law Journal* vol. 100 (1991) [short loan]

Rama Mani, *Beyond Retribution* (Cambridge: Polity Press, 2002).

Mark Osiel, *Mass Atrocity, Collective Memory, and The Law*.

Jaime Malamud-Goti, *Game Without End: State Terror and the Politics of Justice* (Norman, OK: University of Oklahoma Press, 1996).

Neil Kritz, *Transitional justice* 3 volume sourcebook (Washington, DC: USIP Press, 1995).

Priscilla Hayner, *Unspeakable Truths*, remaining chapters.

Chandra Lekha Sriram, *Confronting past human rights violations*, remaining chapters.

Aryeh Neier, *War Crimes*.

Martha Minow *Between vengeance and forgiveness*.

Brad R. Roth, "Retrospective justice or retroactive standards? Human rights as a sword in the East German leaders case," *Wayne Law Review* vol. 50, no. 1 (2004) [short loan]

Carlos S. Nino, "The Duty to Punish Past Human Rights Violations Put into Context: The Case of Argentina," *Yale Law Journal*, vol. 100 (1991), pp. 2619-2641.
<http://www.b92.net/trr/eng/doc/nino.doc>.

Week 7: Regional practice: The ECHR and the IACHR

Look at the European and Inter-American Conventions on Human Rights, and the African Charter on Human and Peoples' Rights, on WebCT

Required readings

J.G. Merrills, *The development of international law by the European Court of Human Rights* chapters 3, 5, 6 and 7 [short loan for IR 3022].

Oren Gross and Fionnuala Ni Aolain, "From Discretion to Scrutiny: Revisiting the Application of the Margin of Appreciation Doctrine in the Context of Article 15 of the European Convention on Human Rights," *Human Rights Quarterly* vol. 23 (2001). [short loan]

Geoff Gilbert, "The Burgeoning Minority Rights Jurisprudence of the European Court of Human Rights," *Human Rights Quarterly* vol. 24 (2002), [short loan]

Pamela A. Jordan, "Does Membership Have its Privileges? Entrance into the Council of Europe and compliance with Human Rights Norms," *Human Rights Quarterly* vol. 25 (2003) [short loan].

Lindsay Moir, "Law and the Inter-American Human Rights System," *Human Rights Quarterly* vol. 25 (2003). [short loan].

IACHR, *Velazquez-Rodriguez* case: http://www1.umn.edu/humanrts/iachr/b_11_12d.htm

Revisit Moravcsik, "The Origins of Human Rights Regimes".

Recommended:

Association for the Prevention of Torture, Occasional Paper, *The African Court on Human and Peoples' Rights* at www.apt.ch/africa/African%20Court.pdf.

Paul Mahoney, "Marvellous Richness of Diversity or Invidious Cultural Relativism?" *Human Rights Law Journal* vol. 19, no. 1 (1998), pp.1-6. [short loan].

Alastair Mowbray, *The Development of Positive Obligations Under the European Convention on Human Rights by the European Court of Human Rights* (Oxford: Hart Publishing, 2004).

J. Scott Davidson, *The Inter-American Court of Human Rights* (Dartmouth, 1992).

Jo M. Pasqualucci, *The Practice and Procedure of the Inter-American Court of Human Rights* (Cambridge University Press, 2003).

Week 8: International practice I: Ad hoc tribunals, the ICC, and mixed tribunals

Required:

ICC statute, ICTR Statute, ICTY Statute, Genocide Convention, Torture Convention, on WebCT site.

Richard Dicker and Elise Keppler, "Beyond the Hague: The Challenges of International Justice" (Human Rights Watch Report) at www.hrw.org

Kenneth W. Abbott, "International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts," *American Journal of International Law* vol. 93 (April 1999).

<http://uk.jstor.org/view/00029300/di007423/00p0502g/0?config=jstor&frame=noiframe&userID=8afb881d@st-and.ac.uk/028258cb3a005035fd08&dpi=3>

Payam Akhavan, "Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?" *American Journal of International Law* vol. 95, no. 1 (January 2001).
<http://uk.jstor.org/view/00029300/di014601/01p0003c/0?config=jstor&frame=noiframe&userID=8afb881d@st-and.ac.uk/028258cb3a005035fd08&dpi=3>

"Development in the Law: International Criminal Law," *Harvard Law Review* vol. 114 (2001), parts I-IV. [short loan].

Leila Nadya Sadat, *The International Criminal Court and the Transformation of International Law: Justice for the New Millennium* chapters 4, 6, and 7. [short loan]

Chandra Lekha Sriram, "Revolutions in Accountability: New Approaches to Past Abuses," *American University International Law Review* vol. 19, no. 2 (2003), part IV. [short loan and WebCT]

Madeline Morris, "The Disturbing Democratic Defect of the International Criminal Court," *Finnish Yearbook of International Law* vol. XII (2001). [short loan]

ICTR, *Akayesu* case:

<http://www.ictor.org/ENGLISH/cases/Akayesu/judgement/akay001.htm>

ICTY, *Tadic* case <http://www.un.org/icty/tadic/trialc2/judgement/index.htm>

Statute of the Special Court for Sierra Leone, on WebCT.

Michael Byers, "Letting the Exception Prove the Rule," *Ethics and International Affairs* :

http://infotrac.galegroup.com/itw/infomark/429/582/50116381w6/purl=rc1_EAIM_0_A109351990&dyn=27!xrn_1_0_A109351990?sw_aep=stand

Recommended readings:

Samantha Power, *'A Problem From Hell': America in the Age of Genocide*.

Bruce Broomhall, *International justice and the international criminal court*.

Kai Ambos and Mohamed Othman, eds *New Approaches in International Criminal Justice: Kosovo, East Timor, Sierra Leone, and Cambodia* (Max Planck Institute, 2003).

Chandra Lekha Sriram and Brad R. Roth, "Externalization of Justice: What does it Mean and What is at Stake?" *Finnish Yearbook of International Law* vol. XII (2001) [short loan]

Nehal Bhuta, "Great Expectations—East Timor and the Vicissitudes of Externalized Justice," *Finnish Yearbook of International Law*, vol. XII (2001). [short loan]

Mark A. Drumbl, "Juridical and Jurisdictional Disconnects," *Finnish Yearbook of International Law* vol. XII (2001). [short loan]

Andrea Bianchi, "Individual Accountability for Crimes Against Humanity: Reckoning With The Past, Thinking of the Future," *SAIS Review* vol. 19, no. 2 (1999). [short loan].

Jose E. Alvarez, "The *Tadic* Case," *European Journal of International Law* vol. 7, no. 2 (1996) <http://http://www.ejil.org/journal/Vol7/No2/art7.html>.

Marc Weller, "Undoing the global constitution: UN security Council Action on the International Criminal Court," *International Affairs* vol. 78 (2002) [short loan].

Galbraith, "The Bush Administration's Response," on short loan for week 2, also bears re-reading.

Week 9: International practice II: Transnational practice through universal jurisdiction and other means

Required:

Stephen Macedo, ed., *Universal Jurisdiction: National Courts and the Prosecution of Serious Crimes under International Law*, Introduction, chapters 1 and 9.

Chandra Lekha Sriram, "Revolutions in Accountability: New Approaches to Past Abuses," *American University International Law Review* vol. 19, no. 2 (2003), Introduction, parts I-III. [short loan]

Alien Tort Claims Act, Title 28, Part IV Chp. 85, Sec. 1350
<http://www4.law.cornell.edu/uscode/28/1350.html>

Filartiga v Pena Irala case: <http://homepage.ntlworld.com/jksonc/docs/filartiga-630F2d876.html>

Marcia Coyle, "High Court to Hear Alien Tort Claims Act Arguments," *National Law Journal* (March 2004)
http://biz.yahoo.com/law/040330/3ffe3d0087184c20d1e41c27908a414e_1.html

"Development in the Law: International Criminal Law," *Harvard Law Review* vol. 114 (2001), parts V, VI. [short loan]

Christoph Safferling "Torture as Tort" book review *European Journal of International Law* vol. 14, part 2 (2003). [short loan]

Recommended readings:

Sosa v. Alvarez-Machain case [785 kb pdf](#).

Anne-Marie Burley, "The Alien Tort Claims Statute and Judiciary Act of 1789: A Badge of Honor," *American Journal of International Law*, vol. 83 (1989)
<http://uk.jstor.org/view/00029300/di981833/98p0812g/0?frame=noframe&userID=8afb881d@st-and.ac.uk/018258cb3a00504673f5&dpi=3&config=jstor>.

Stephen Macedo, ed., *Universal Jurisdiction: National Courts and the Prosecution of Serious Crimes under International Law*.

Luc Reydamas, *Universal Jurisdiction: international and municipal legal perspectives* (Oxford University Press, 2003).

Brad R. Roth, "Anti-Sovereignism, Liberal Messianism, and Excesses in the Drive Against Impunity," *Finnish Yearbook of International Law* vol. XII (2001) [short loan].

Week 10: New actors, shifting obligations? Armed groups and corporations as subjects of human rights litigation

George Andreopoulos, "The international legal framework and armed groups," <http://www.armedgroups.org/Panels/andreopoulos.htm> [please be sure to click on the link to the full pdf file of the paper].

Chandra Lekha Sriram, ""Achieving accountability for armed nonstate groups—use of domestic mechanisms for international crimes," in Pablo Policzer and David Capie, eds., *Curbing human rights violations by non-state armed groups* (forthcoming) [short loan].

Timothy Raeymakers, "Targeting businesses in conflict: beyond the plunder logic," Paper for Armed Groups Conference (Vancouver, 13-15 November 2003), at www.armedgroups.org.

William J. Aceves, "*Doe v. Unocal* 963 F.Supp. 880," *American Journal of International Law* vol. 92, no. 2 (April 1998).
<http://uk.jstor.org/view/00029300/di007419/00p0362s/0?frame=noframe&userID=8afb881d@st-and.ac.uk/018258cb3a00504673da&dpi=3&config=jstor>.

David Weissbrodt and Maria Kruger, "Norms on the Responsibilities of Transnational corporations and Other Business Enterprises with Regard to Human Rights," *American Journal of International Law* vol. 97, no. 4 (October 2003).
<http://uk.jstor.org/view/00029300/sp040001/04x0013m/0?frame=noframe&userID=8afb881d@st-and.ac.uk/018258cb3a00504673f5&dpi=3&config=jstor>.

Doe v. Unocal <http://homepage.ntlworld.com/jksonc/docs/filartiga-630F2d876.html>

Wiwa v Royal Dutch Shell <http://www.derechos.org/nizkor/econ/shell28feb02.html>

"Development in the Law: International Criminal Law," *Harvard Law Review* vol. 114 (2001), part V [short loan].

Recommended readings:

Ana Elena Obando, "States and corporations: legal responsibilities to the people" at http://www.whrnet.org/docs/issue-states_corporations.html

Karen Ballentine and Heiko Nitzschke, "Business in Armed Conflict: An Assessment of Issues and Options," draft article [short loan].

David Forsythe, *Human Rights in International Relations* chapter 8 [book on short loan].

Week 11: The future of human rights

Required readings:

Fred Dallmayr, *Achieving Our World* chapter 2 [book on short loan].

Richard Falk, *Human Rights Horizons: The Pursuit of Justice in a Globalizing World* (New York: Routledge, 2000), chapters 11-13.

Anthony D'Amato, "Do We Owe a Duty to Future Generations to Preserve the Environment?" *American Journal of International Law* vol. 84, no. 1 (January 1990), pp. 190-98. <http://links.jstor.org/sici?sici=0002-9300%28199001%2984%3A1%3C190%3ADWOADT%3E2.0.CO%3B2-3>.

Carnegie Council on Ethics and International Affairs, *Human Rights Dialogue* special issue on "Environmental Rights," series 2, no. 11 (Spring 2004), read all articles <http://www.cceia.org/viewMedia.php/prmID/4437>.

Final Report of the Commission on Human Security (2003), skim <http://www.humansecurity-chs.org/finalreport/index.html>.

Len Doyal and Ian Gough, *A Theory of Human Needs* (London: Palgrave, 1991) [skim].

Recommended readings:

Falk, *Human Rights Horizons* remainder of book.

Peter Singer, *One World: The Ethics of Globalization* (Yale University Press, 2002). or

Tom Regan and Peter Singer, eds., *Animal Rights and Human Obligations* (Englewood Cliffs, NJ: Prentice-Hall, 1976).

Tips for essay writing
Dr. Chandra Lekha Sriram

General structure

It may appear obvious or slightly repetitive, but a clear essay will tell people what you plan to say, then say it, then tell them what you have said. This approach should help you to shape your introduction, main text, and conclusion, respectively.

The introduction

An introduction ought to be clear about what it is that your essay will do. It should do the following:

- Indicate what question(s) you seek to answer
- Identify why these questions arise? Do they come from a specific literature or from real world events? You should provide a context that helps to make clear not only what your questions are, but why they matter
- Indicate what answers you will offer to the questions?
- Indicate how you will reach the answers. This should make clear your sources, methods, and evidence
- Offer an overview/roadmap which makes clear your plan for the remainder of the paper

The paper

The body of the paper will offer your argument and evidence. It is important therefore that you offer clear lines of argument, and well-sourced evidence. It is equally important that you write clearly, and edit carefully.

Argumentation

You must be careful to offer reasoned arguments that support your initial thesis and answer the questions that you pose.

- Use clear evidence to support any claims that you make. This may be empirical, offering facts, statistics, historical narrative, or it may be theoretical and deductive, offering an elaboration of theoretical claims and their implications
- Be clear about what claims your evidence supports, and how. Simple statements of fact do not automatically support a claim
- Avoid making arguments that are tautological—your evidence must prove that something is the case, rather than be definitional. An argument that demonstrates that democracies engage in citizen representation is not of particular interest
- Consider the counter-arguments. Be certain to raise real objections that might be raised by a skeptic, and not simply straw men that are easy to destroy. Straw men do not pose real tests for your thesis
- Document your claims with clear footnotes. Footnotes should certainly be offered to support specific factual claims (e.g. ‘no modern democracies have gone to war against other modern democracies’). They should also be offered to support key arguments or claims where they have been made by others. Failure to do so is a form of plagiarism. However, simply telling the reader that someone has said *x* is insufficient—that proves they said it and nothing more. You should also make clear what the reasoning is behind someone else’s claim, if you are using it to bolster your argument. Footnotes should be clear and complete—*Chicago manual of style* is preferable. Using footnotes rather than in-text citations keeps the text clean and readable.

Writing

It is very important that the structure of your argument be clear, and that your writing be clear and grammatically correct. A number of steps can be taken to ensure this:

- Make only one or two clear points in your paper, and organize the paper simply and clearly. Try to avoid adding numerous ancillary points, no matter how interesting, if they do not contribute to your core inquiry
- Create clear headings for sections, with clear signposting for each section and transition; try to avoid excess subsections and subheadings
- Each section should offer the:
 - Argument of the section
 - Supporting evidence
 - Counterarguments or limitations to the argument
- Writing from an outline will help you to follow the structure suggested here
- Begin each paragraph with a topic sentence
- Write clear, declarative sentences
- Avoid the passive voice. They make your argument less clear, as they often obscure who is actually doing the acting. They also make it sound as though you are unclear or indecisive yourself as to what has taken place and why.
- Avoid run-on sentences. Do not try to pack too much into any given sentence, as it is liable to confuse the reader or conflate several issues
- Don't clutter the text with information that is not directly relevant. It is not necessary to write 'Columbia professor Michael Doyle has argued that democracies do not fight each other for two reasons' when you can write 'It has been argued that democracies do not fight each other for two reasons' and footnote the relevant article by Doyle. Clearly, the exception will be where another author is your main object of inquiry—if you are describing Hobbes' version of the social contract.
- Don't use excessive direct quotations. Where possible, paraphrase the arguments of others, and footnote the relevant page(s). Use quotations where they are particularly apt only. If they run more than three lines, indent the quote, offset it from the text, and single space it.
- Be very cautious about spelling, grammar, and style. Poor grammar and poor spelling makes you look sloppy and casts doubt upon the general quality of your scholarship. MS Word and other programmes help with this, marking spelling and grammar queries—*pay attention to these*. Sloppy style and inconsistency also undermines your argument. Common errors include:
 - Confusing its and it's. The former is the possessive of it, while the latter is a contraction of it is.
 - Confusing homonyms. Their, there, and they're are different.
- Pay attention to sentence parallelism. Make sure that not only do subjects and verbs agree, but that each agreement is consistent in a list of things. For example, 'It is vital for a law to be effective that it is *passed*, that it is *published*, and that it is *enforced*.'
- Be consistent about use of language. This holds for terminology and style. If you are using a term of art that is specific to a literature, define it according to the rules of that literature, and follow it consistently. Similarly, if you choose to capitalize or otherwise use specific notation for a term, use it consistently. Some international lawyers may capitalize *States*, but most international relations scholars use the lowercase *states*. If you use one or the other, stick with it throughout.
- You can ensure that your paper is clear and readable by vetting it—have a friend read it through before turning it in.

The conclusion

The conclusion should follow all of the rules indicated above. If your introduction was thorough and your structure clear, a long conclusion will not be necessary. You should still, however, recapitulate your argument and the key support for it. You may then turn to the implications of your findings, be they policy implications or theoretical ones.

