

American University

International Human Rights Law Clinic

Syllabus Spring 1999

Profs. Wilson, Milstein and Lyon

Required Texts:

From First Semester:

1. Germain, *AILA's Asylum Primer*, AILA (1998)
2. Binder, Bergman and Price, *Lawyers as Counselors*, West Publishing (1991)
3. Bergman, *Trial Practice in a Nutshell*, West Publishing (3d ed. 1997)
4. International Human Rights Clinic, *Supplemental Readings* (Fall 1997)

New in Second Semester:

1. *Guide to International Human Rights Practice* (H. Hannum ed., 2d ed. 1992)

(Note: A new edition of this book is expected this year. Because this edition is somewhat out of date -- mostly with regard to case reports, not the operation of particular mechanisms -- you may wish to forego purchase of this edition and use the WCL library's copies on reserve, or wait to buy the current edition until just before the relevant readings occur after week 7. If an adequate, newer substitute appears in the meantime, we will notify you immediately.)

****As in the first semester, all class sessions will be held in the Experimental Courtroom, Room 415, on Thursdays from 9:00 to 12:00. Again, typically, the whole group will meet for the first two hours and then the groups will divide and meet with their supervisors for case rounds. Rick's group will meet in room 445, Elliott's in 440, and Beth's in 415. Team assignments and supervisors will remain the same for the second semester.

Week 1: January 14

Direct Examination I: Discussion on Direct, Exhibits and Demonstrative Evidence.

Readings: Bergman, pp. 1-41, 84-128.

Assignment: As handed out in class.

Note: At any time during this semester, you may wish to hone your trial skills with interactive disks in the Clinic library. The disks cover a broad range of topics. They are stored there with a machine and instructions for their use. Feel free to use them.

Week 2: January 21

Direct Examination II: Simulation: Direct of Beatrice and discussion of Experts.

Readings: Bergman, pp. 129-165, 332-340 (166-176, optional). Prepare for simulation, as assigned.

Assignment: Prepare your role (attorney/witness) and conduct direct examination of Beatrice in small groups with Rick, Elliott or Beth. Return to 415 at 10:30 for discussion on experts.

Week 3: January 28

Cross-Examination I: Discussion and Practice.

Readings: Bergman, Ch. 9.

Assignment: Discuss cross-examination issues in Nikuze litigation.

Week 4: February 4

Cross-Examination II: Cross of Beatrice Nikuze.

Readings: Role instructions, as assigned in class the week before.

Assignment: Small-group break-outs in your Rounds rooms, with practice in cross-examination of Beatrice Nikuze. Rounds as usual.

Week 5: February 11 and 12

Mock Hearings: In re Beatrice Nikuze.

Readings: Bergman, 292-332, 340-353. Role instructions, as assigned.

Assignment: During a 3 hour block on either Thursday or Friday, you will conduct a full merits hearing in the matter of Beatrice Nikuze, with openings, closings, direct and cross (the INS will call its own expert witness), conducted before an outside judge. Your performance will be taped for later review. No Rounds this week.

Week 6: February 18

Discussion of Mock Hearing Tapes from Nikuze Simulation.

Readings: You should watch the tape of your hearing. You may do this in groups or individually (tapes can be signed out from Regan).

Assignment: Write a personal reflection of no more than 2 pages, typewritten and double-spaced, on your performance. Identify by the time on the tape any segment which you would like to make the subject of the group review during class. Turn in your reflections to Regan before 5:00pm on Tuesday, Feb. 16. Review tapes, in groups of four, for one hour, as scheduled, during class time. Each faculty supervisor will hold two sessions, one at 9:00 and one at 10:00. Rounds as usual.

Week 7: February 24

Human Rights Law I: Using Human Rights Affirmatively in Domestic and International Litigation.

Readings: Jose Alfredo Espinoza Simulation handout and Hannum, Ch. 3, 4 and 9. (Those who have not had a substantive human rights course, or who wish a quick refresher, should review chapters 1 and 2).

Assignment: Come to class prepared to discuss:

1. what relevant considerations will govern the choice of law and forum in this situation; and
2. which of the available UN or regional human rights mechanisms might provide a viable remedy for Mr. Espinoza's legal dilemma, and why you would recommend one over another.

Note: During the coming week, March 1-5, the Inter-American Human Rights Commission, is likely to be holding hearings on individual complaints and country situations. Although it will not be a part of assigned class work, we strongly urge you to attend one or more hearings. We have one case on the Commission's docket for hearing at this time, *Walker v. U.S.*, but not everyone should go to that session. You will normally need permission to attend from the petitioner's representative. We will try to identify some arguments and petitioners with whom you can connect. The Commission's headquarters are at 1889 F St., NW, about 2 blocks west of the Old Executive Office Building; arguments will be held there or at the OAS headquarters building, that big impressive old structure across from the Ellipse on 17th. The nearest Metro to both is Farragut West, on Blue and Orange lines, or Farragut North, on the Red. Hearings are usually from 15 minutes to a half-hour per session, usually with simultaneous panels in action. Some are in English and some in Spanish, with translation normally unavailable. There is no conflict in sitting in on a hearing in which either Claudio Grossman or Bob Goldman is a panel member. Do not just show up and expect to get in (although some did last year, and did get in).

Week 8: March 4

Client Counseling II: Sharpening Techniques.

Readings: Review readings on client counseling, especially Binder, Bergman and Price, Ch. 15-16.

Assignment: Prepare to discuss, with your partner, Mr. Espinoza's legal options and your recommended course of action. Sign up for and conduct counseling session with Mr. Espinoza regarding those options.

Week 9: March 11

Client Counseling Review Session.

Readings: Binder, Bergman and Price, as assigned last week.

Assignment: Review tapes of counseling with faculty supervisor, as assigned.

March 15 -- 19: Spring Break

Week10: March 25

Human Rights II: Facts and Law: Investigating Domestic and International Options.

Readings: Materials on the Alien Tort Claims Act (ATCA) and Inter-American Commission on Human Rights, as distributed in class.

Assignment : Be prepared to advise Mr. Espinoza on domestic and/or international courses of action, and discuss the necessary factual and legal investigations which must be undertaken before trial.

Week 11: April 1

Human Rights Facts and Law III: How Human Rights Tribunals Find Facts and Law.

Readings: TBA.

Assignment: This is the first time this topic appears on our syllabus. We plan to relate this topic to your prior work on the Espinoza simulation, so it's likely that we will have you explore how human rights tribunals, international and domestic, use facts and evidence to reach legal conclusions.

Week12: April 8

Human Rights Conference: Economic, Social and Cultural Rights.

Assignment: Today, all day, there is a conference at the law school on Economic, Social and Cultural Rights in the United States. You are required to attend a minimum of two hours of the conference, and are encouraged to attend all day. The topic is: The Role of Economic, Social and Cultural Rights in the Promotion of Justice in Post-Rights America. The conference will bring together domestic and international legal advocates working with the issues -- welfare, work, housing, education and health -- and the constituencies -- the poor, women, children, the elderly, minorities -- most affected by the denial of basic economic, social and cultural rights in the United States. The program will work through a case-study set in the United States. This workshop will be coordinated with the conference on Development to be held the following day, April 9th, which will also work through a case study. There are no Rounds today.

Weeks 13: April 15

Human Rights Facts and Law IV: The Fact-Finding Mission.

Readings: Supplemental Readings, pp. 92-118; others TBA.

Assignment: This class session will explore the differences between fact finding and investigation in the human rights situation, as opposed to the individual human rights case. You will discuss how the facts which you have used to support your asylum claims -- facts from country reports and other general sources -- are gathered, analyzed and published.

Week14: April 22

Human Rights, the Media and the Legislature.

Readings: Handouts TBA.

Assignment: Half the class will write a press release and be prepared to hold a press conference on the Espinoza case, with an invited guest speaker representing the press in attendance at the conference. The other half of the class will prepare to meet with a member of Congress (another visiting guest) whom you wish to persuade to vote for an amendment to federal legislation to protect human rights victims like your client, Mr. Espinoza. Make your case to the Member about why he or she should take the action you propose.