

## University of Chicago

### Human Rights III: Contemporary Issues in Human Rights

Spring Quarter 1999  
History 295/395  
Committee on International Relations 579  
Th, 3:00-5:00

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This course will examine the main features of the contemporary human rights system, both in respect of international, regional and national legal conventions, and in relation to current human rights problems. It will examine the origins of the current system, the uses and limitations of the international treaty system, and the relationship between international obligations and domestic implementation. Problems of rights implementation will be related to issues of evidence, professional ethics and political feasibility. Legal and medical concepts will be applied to topics such as torture, political repression, war crimes and genocide, refugees, women's rights, children's rights, violations of human rights within the US and medical ethics.

#### **Format**

The course will consist of a two hour combined lecture and discussion session each week. Each session will be co-taught, one hour by each of the faculty organizers. Guest lecturers will be invited for weeks 4 and 10.

#### **Requirements**

Students will be expected to submit a mid-term paper (5-6 pages) due on April 29, 1999, and a final paper (10-15 pages) due on June 10, 1999. Graduating students can make arrangements with the course organizers to submit their work earlier. Topics for the mid-term will be handed out before the lecture on April 15. Suggested topics for the final paper will be handed out on April 29, but students are encouraged to select their own topics and get approval from one of the course organizers. Students' conceptual understandings and knowledge will be assessed through their participation in class and their mid-term paper. Their abilities to develop original ideas and engage in critical thinking on human rights will be reflected in their final paper. The course grade will reflect all three components.

The Ignacio Martin-Baro Human Rights Essay Prize Students are also encouraged to submit papers to this essay prize, details of which will be distributed in class.

There is a Human Rights Film Series co-sponsored by the Humanities Division and Doc films that should be of interest to students enrolled in the course. Films to be shown include. A detailed listing of the films, the dates and times of their showings, will be distributed in class.

Students are responsible for all course readings except those marked 'optional'. Students are required to buy the 'core texts' (available at the Seminary Coop Bookstore) and the pack of xeroxed materials available for sale in the Law School's duplication room. Books on reserve can be consulted in the Center for International Studies (Pick 103).

### **Core Texts - Required**

1. International Human Rights: Law, Policy and Process, 2nd ed. F. Newman and D. Weissbrodt, editors; Anderson Publishing Co., 1996 (N&W)
2. Twenty-five Human Rights Documents, Columbia University, 1994 (HRD)

## **Schedule**

### **Week 1: April 1**

#### **Introduction: Human Rights as a Global Discourse and an International Legal Order**

Historical and philosophical origins of human rights; the emergence of the modern state, the place of the individual therein and the role of international law in delineating that relationship. The International Bill of Rights; ratification and implementation of treaties; 'generations' and the creation on new human rights. The difference between civil rights and human rights.

Reading:

- o Henkin, L. 'Introduction: The Human Rights Idea,' in *The Age of Rights* (1990: Columbia UP), pp. 1-10.
- o Donnelly, J. *Universal Human Rights in Theory and Practice* (1989: Cornell UP), pp. 9-45.
- o N.&W. Ch. 1 and 2.

### **Week 2: April 8**

#### **Comparative Human Rights Systems (UN, American and European)**

Are human rights a western concept or universal? What is the relationship between domestic constitutional law and international human rights law? What mechanisms exist nationally and internationally for enforcing human rights? How effective are they? The Soering and El Mozote cases.

Reading:

- o M. Danner, *The Massacre at el Mozote* (1993: Vintage), pp.175-278
- o M. Hoyt, 'The Mozote Massacre' in *The Columbia Journalism Review* (Jan./Feb 1993), pp.31-35
- o Soering v U.K., in R.A. Lawson & H.G. Schermers, *Leading Cases of the European Court of Human Rights* (1997: Ars Aequi Libri), pp.306-328
- o N&W: Ch.10, 11

### **Week 3: April 15**

## **Torture and Extra-Judicial Executions**

The definition of torture under international law; the difference between torture and cruel, inhuman and degrading treatment or punishment. Physician involvement in torture.

Reading:

- Nigel Rodley, *The Treatment of Prisoners Under International Law* (1987: Clarendon Press), Ch. 12, pp.278-302
- Ireland v. UK, in N&W pp.147-150; 155-165.
- Convention against Torture, in HRD pp.71-79
- Askoy v. Turkey, in *Leading Cases of the European Court of Human Rights*, eds R.A. Lawson & H.G. Schermers (1997: Ars Aequi Libri), pp.654-670
- "Physicians for Human Rights, Torture in Turkey and its Unwitting Accomplices" (on reserve at CIS)
- Gordon & Marton, eds., "Torture: Human Rights, Medical Ethics, and the Case of Israel" (on reserve at CIS)

Midterm topics handed out.

## **Week 4: April 22**

### **Political Repression: Guest Speaker Prof. Marvin Makinen**

State repression in the Soviet Gulag: Documentation, extent, ethnic and political criteria, psychiatric repression.

Reading:

- Amnesty International, *Prisoners of Conscience in the USSR: their Treatment and Conditions* (1975, 1980), Ch.2, pp.65-87
- E. Stover & E.O. Nightingale, M.D., *The Breaking of Bodies and Minds: Torture, Psychiatric Abuse, and the Health Professions* (1985: W.H. Freeman), Ch6 pp132-163, and Ch.9 pp.206-222

## **Week 5: April 29**

### **War Crimes, Crimes against Humanity and Genocide**

The Nuremberg legacy; legal definitions;

War crimes, genocide and crimes against humanity: medical/forensic, legal, psychological and sociologic factors. Rape as a war crime.

Reading:

- N&W Ch. 7
- Amnesty International, *'Disappearances': A Workbook* (1981), pp.75-118
- Amnesty International, *'Disappearances' and Political Killings: Human Rights Crisis of the 1990s. A Manual for Action* (1994), pp.84-107
- K.D. Askin, *War Crimes against Women*, (1997: Martinus Nijhoff), pp. 49-95; 179-185; 298-361.
- C.MacKinnon, 'Rape, Genocide, and Women's Human Rights' in ed. A. Stigmayer *Mass Rape: The War Against Women in Bosnia-Herzegovina* (1994:U. of Nebraska Press), pp.183-196.

Turn in Midterms.

Hand out final paper suggested topics.

### **Week 6: May 6**

#### **Refugees, Asylum and Persecution**

Refugee and asylum law; what does international law mandate, what does domestic law offer refugees? Consideration of genesis of international refugee law and comparison with current situation. The role of non-state actors as persecutors; domestic violence and female genital mutilation as the basis for asylum.

Reading:

- N&W Ch. 14
- In Re Fauziya Kasinga (Board of Immigration Appeals, June 1996)
- Convention against Torture: Tahir Hussain Khan v Canada (Nov 1994); Pauline Kisoki v Sweden (May 1996).

### **Week 7: May 13**

#### **Women's Rights**

Reading:

- Charlesworth etc article excerpts
- Beijing
- CEDAW weaknesses
- Trafficking

### **Week 8: May 20**

#### **Children's Rights**

Reading:

- Rodham article
- CRC
- Child labour
- Child persecution

### **Week 9: May 29**

#### **Violations of Human Rights in the US**

Death penalty; prison conditions; detention of alien minors including children asylum seekers.

Reading:

- N&W ch. 13

### **Week 10: June 3**

## Ethical Questions in Medical Research. Guest Lecturer Dr. John Lantos

Medical ethics and research; human radiation experiments in the US; HIV trials in other countries.

### Reading:

- HCR: Faden, R. The Advisory Committee on Human Radiation Experiments: Reflections on a Presidential Commission;
- Moreno, J.D. *"The Only Feasible Means": the Pentagon's Ambivalent Relationship with the Nuremberg Code*
- Kass, N.E. et al. Trust: The Fragile Foundation of Contemporary Biomedical Research; Burt, R.A. The Suppressed Legacy of Nuremberg.
- Varmus, H. "Ethical Complexities of Conducting Research in Developing Countries." *New England Journal of Medicine* 337(1997):1003-5.
- P. Lurie, Wolfe, S.M. "Unethical Trials of Interventions to Reduce Perinatal Transmission of the Human Immunodeficiency Virus in Developing Countries." *New England Journal of Medicine* 337 (1997):853-6.
- M. Angell, "The Ethics of Clinical Research in the Third World." *New England Journal of Medicine* 337 (1997):847-9.