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 (IR 3022) 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

Module instructor: Dr. Chandra Lekha Sriram
Office: International Relations, Room 14
Tel. (46) 2917
Email: cls9@st-andrews.ac.uk
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.

**Unauthorized 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:
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.iccnow.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:


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:

• Secondary sources:


Recommended readings:


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]

*Recommended readings*


**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].

*Recommended readings:*

- 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*


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


**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]


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](http://web1.infotrac.galegroup.com/itw/infomark/663/203/49207754w1/purl=rc1_EAIM_0_A14895816&dyn=3!xrn_3_0_A14895816?sw_aep=stand)


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


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

Amartya Sen Development as Freedom.


Week 6: Domestic practice: Transitional Justice

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


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


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

See also resources from the International Center for Transitional Justice [www.ictj.org](http://www.ictj.org), link also on WebCT.

*Recommended:*


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*.


**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].


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

Revisit Moravcsik, “The Origins of Human Rights Regimes”.

Recommended:


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


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.


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]


ICTR, Akayesu case: http://www.ictr.org/ENGLISH/cases/Akayesu/judgement/akay001.htm


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


**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).


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:**


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


Recommended readings:


**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].


http://uk.jstor.org/view/00029300/sp040001/04x0013m/0?frame=noframe&userID=8af881d@st-and.ac.uk/018258cb3a00504673f5&dpi=3&config=jstor.


*Wiwa v Royal Dutch Shell* http://www.derechos.org/nizkor/econ/shell02feb02.html


**Recommended readings:**

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


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

**Week 11: The future of human rights**

**Required readings:**


**Recommended readings:**


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.