

Course Outline
for
International Human Rights/Humanitarian Law

FIRST SEMESTER 2013

Aim

This course builds upon public international law taught in the first semester of the penultimate year. Its aim is to provide students with the knowledge and ability to critically analyse contemporary issues in human rights and international humanitarian law (IHL). It has been designed to enable LLB students, in their final year of study, obtain both essential knowledge of, and critical insight into, topical issues in human rights and humanitarian law, and acquire the ability to relate those issues to the contemporary South African situation. This year the course will be offered in the first semester. Students who register for this course will be expected to actively participate during lectures and seminars. Therefore, they will be expected to read the materials listed in the reading list provided and make adequate preparations. Students will also be encouraged to develop critical perspectives in light of their diverse historical and socio-economic backgrounds.

A Learning Outcomes

On completion of this course, students are expected to be able to:

1. Discuss and critically evaluate the fundamental concepts, principles and theories underlying international human rights and humanitarian law
2. Analyse and determine the current scope of selected substantive human rights and concepts in international humanitarian law
3. Critically discuss and debate international and regional human rights enforcement mechanisms, as well as main protection regimes of international humanitarian law
4. Critically evaluate the strengths and weaknesses of the contemporary regimes of international human and humanitarian law.
5. To develop a critical awareness of the international human rights system, the implementation of international human rights standards and the protection regimes of international humanitarian law.
6. To be able to apply legal knowledge on the subject to a practical situation and draw reasoned conclusions supported by legal authority.

B Mode of delivery

This is a lecture and seminar based course. Lectures provide core course content. Seminars develop associated higher level skills through student centred learning. Lecture slides, when used, **WILL NOT** be provided to students. Also, there is no comprehensive handout for the course but, students will be provided with this course outline and a reading list. In addition, supplementary material may be supplied from time to time. All students are expected to attend all lectures, present their views, listen to contributions from fellow classmates and facilitator, and prepare their own notes. They are expected to use the lectures, seminars and their own research to enrich their knowledge of the subject.

Students are expected to take responsibility for their learning by reading ahead before each lecture and consolidating afterwards. Lectures are compulsory and a student may not miss more than **THREE** lectures without a valid Leave of Absence (LOA). [**DPs will be enforced strictly because attendance and discussions in class are an important part of the course**]

C Course Content

The course is divided into two parts because it covers two branches of law. Part A deals primarily with the principles of international human rights law, and Part B, covers selected topics on international humanitarian law. The first part will be covered in 7 weeks, while the latter in 6.

Part A

1. The idea of human rights, universalism and the challenges of cultural diversity.
2. Sources and normative foundations of human rights law.
3. International human rights standards: individual rights, civil and political rights, social, economic and cultural rights, and group rights.
4. Implementation of human rights law: Charter-based and Treaty-based mechanisms
5. Implementation: the African human rights system

Part B

6. Definitional aspects and scope of IHL
7. Sources of IHL and basic concepts.
8. Protection of combatants and prisoners of war.
9. Protection of civilians
10. Conduct of hostilities
11. IHL and human rights: Divergence or convergence?

D Resources

The Basic Texts for this Course are **Steiner, Alston & Goodman, *International Human Rights Law in Context: Law, Politics, Morals*** (Oxford, 3rd Ed., 2008) and **Marco Sassòli, Antoine A Bouvier, *How Does Law Protect in War*** (ICRC 2011). Students are strongly encouraged to visit the **ICRC webpage**, which contains a wealth of materials on international humanitarian law, in addition to the texts and materials indicated here.

Other texts and materials that may be consulted are:

1. Frans Viljoen, *International Human Rights in Africa*, (OUP, 2007).
2. Frits Kalshoven & Liesbeth Zegveld, *Constraints on Waging War: An Introduction to International Humanitarian Law*, 4th ed.(ICRC 2001).
3. Francisco Martin, *International Human Rights and Humanitarian Law: Treaties, Cases & Analysis*, (Cambridge 2006).
4. Rene Provost, *International Human Rights and Humanitarian Law*, (Cambridge 2002).
5. Paul Sieghart, *The International Law of Human Rights*, (Oxford, 2003).
6. Asbjørn Eide *et al eds.*, *Economic Social and Cultural Rights: A Textbook* (Martinus Nijhoff, 1995).
7. Redson Kapindu, *From Global to the Local: The Role of International Law in Enforcement of Socio-Economic Rights*, (UWC, 2009).
8. Jakob Möller *eds.*, *International Human Rights Monitoring Mechanisms* (Martinus Nijhoff, 2009).
9. Anne Bayefsky, *The UN Human Rights Treaty Ssystem in the 21st Century*, (Kluwer 2000).
10. Rachel Murray, *The African Commission on Human and Peoples Rights and International Law*, (Oxford 2000).
11. Obiora Chinedu Okafor, *The African Human Rights System: Activist Forces and international Institutions* (Cambridge, 2007).
12. Jean-Marie Hanckaerts, *Customary International Humanitarian Law*, (Cambridge 2005).
13. Yves Sandoz, Christophe Swinarski, Bruno Zimmermann *eds.*, *Commentary on the Additional Protocols (8 June 1977) to the Geneva Conventions (1949)* (ICRC 1987).
14. International Human Rights and humanitarian instruments that readily available online.
15. Several published articles and book chapters contained in the reading list (hard copy provided).

The following websites may also be useful:

16. The ICRC: <http://www.icrc.org>
17. The United Nations: www.un.org
18. Office of the High Commissioner for Human Rights: www.unhchr.ch
19. The African Union: www.au.int
20. African Court on Human and Peoples' Rights www.african-court.org
21. The African Commission on Human and Peoples Rights: www.achpr.org
22. The International Criminal Tribunal for Rwanda: www.ictt.org
23. The International Criminal Tribunal for Yugoslavia: www.icty.org
24. The International Criminal Court: www.icc-cpi.int
25. The European Court of Human Rights: www.echr.coe.int

Students should note that there are many electronic copies of books and articles via Hein Online or LexisNexis to which the Law Library subscribes, and which are accessible. They must endeavour to make use of these. Also, there are many books and materials which students may get through our library system, in the course of their own research, that relate to topics to be discussed or are relevant to their term essays.

E Assessment

The final mark for the course is compromised of the following components:

Examination:	out of 70 marks
Class work:	out of 30 marks
Total:	100 marks

Term essays

There will be two essays to be written in this course, covering the two branches of the law. The first question for the first essay will be made available at the beginning of the semester and must be submitted on or before 15 March 2013. The next essay question will be available on or before 12th of April 2013 and will be due on or before 3rd May 2013. Each of the essays should not exceed 1500 words in length, must be typed in double spacing, and must contain a signed declaration on plagiarism. The essays, which will provide the class mark for this course, are research related and students will be expected to deal problems that are ordinarily not covered by lecturers, but which will be examinable, nonetheless. In addition, *the essays are expected to be in the form of a publishable article and referenced in the house style of the SALJ. No late assignments will be accepted for marking.* There will be no test in this course.

Examination

The June examination will be two-hour paper that will be out of 70 marks (The class component having contributed 30 marks). The exam will be divided into two parts: Part A and B. There will be two questions from each part, making a total of four. Students shall be required to answer one question from each part. Each question will carry 35 marks and may require students to be able to explain legal rules and principles, in a theoretical sense, or apply their knowledge to solving practical problems.

F Evaluation

Students will be required to complete evaluation questionnaires according to the Law Faculty's evaluation cycle. Student responses to these questionnaires assist the faculty in improving the quality of teaching as well as for curriculum development. An external examiner will assess the quality of the exam paper and student answers and will complete a report on the course. Nonetheless, students are encouraged to discuss difficulties and problems regarding the course with the lecturer – either personally or through a class representative.

G Contacts

Professor Laurence Juma is the coordinator of the course and he can be contacted as follows:
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