

INTERNATIONAL HUMAN RIGHTS
LEGAL STUDIES 154
J. KIRK BOYD
SPRING 2009

Description of Course

While international human rights are inherent for every human being regardless of country, sex, wealth, race, and other differences, their realization is an evolutionary process. Much of the evolution of human rights can be seen through documents. This course will survey the philosophical basis for human rights, the incorporation of human rights into documents, and the creation of institutions to gradually make these documents enforceable in courts of law.

We will follow this evolutionary path for human rights through the perspective of human rights leaders, both governmental and nongovernmental, as they have acted to create human rights documents, often in response to a horrific events such as World Wars I and II, and genocide in Rwanda. Today there is an emerging trend towards the enforcement of human rights, including economic and social rights, as one of many paths to international security that complements military preparedness.

As our guides through the course, we will use a textbook, *International Human Rights Law, an Introduction*, by Weissbrodt, and de la Vega, a reader that is a compilation of human rights documents and articles, as well as excerpts from books, and a website, www.2048.berkeley.edu which is the home for the 2048 Project at the UC Berkeley, Boalt Hall School of Law. In addition, over the semester, each student is required to bring in 3 newspaper, blog entries, or magazine articles that they feel raise issues of significance to our class.

Through review of our written materials and classroom discussion, we will learn about important human rights developments, and the operation of existing international human rights institutions such as the Human Rights Council and the Committees implementing the human rights Covenants. In addition, we will also work together as part of the Berkeley 2048 Project to write a new international framework for human rights that can be enforceable in the courts of all countries.

Participation and Grading

We are working together in this course, both through classroom discussion which is interactive, and through a joint effort to draft new human rights documents. Participation, therefore, is essential to the success of the course. To this end, a seating chart is used in class so that, in the spirit of Socratic tradition, people can be called on to respond, and they are also free to comment on the comments of others. While we may question authority, will never personally attack each other.

Considerable work goes into preparation for class, including the preparation of the instructors. In recognition of this effort, classroom attendance is mandatory, including section. Students may only have four unexcused absences during the course, after that their grade will be lowered by a quarter of a grade for each class missed.

Participation in class constitutes 25% of the grade. The remaining 75% is divided between a midterm and a paper. The midterm constitutes 20% and will be a combination of multiple choice and essay. The final constitutes 55% and is a 20 page paper – not more or less. The paper is expected to be a serious piece of writing that reflects in depth research evident through the use of footnotes.

Students may choose any topic discussed in class, including the drafting of regional documents, or international documents, such as a draft International Convention on Human Rights. The paper may also address a general topic concerning the breadth of the Conventions, such as the philosophical basis for them, or the paper may address a particular article such as free speech, or even an issue within a particular article. Thoroughness and high quality are the benchmark.

All papers will be posted on the 2048 website. In this way, students will not only learn about how existing documents were drafted, and their current application, but will also, in a genuine way, be participating in the drafting of new human rights documents. Students may continue to be involved with the development of the documents in the years ahead, but if not, at the very least they will be able to look back at the documents as something that they worked on in this course.

Week 1 What are Human Rights?

January 21, 2009, Introduction/Class discussions: What are human rights? Please bring a newspaper article or magazine article to aid our discussion. We will outline the course and discuss paper requirements.

January 23, 2009, Weissbrodt, *International Human Rights*, Part A, Pgs. 1-13, William F. Felice, *The Global New Deal*, Chapter 1, Reader: 30-42,

Week 2 Social Contract and Human Rights

January 26, 2009, Weissbrodt, *International Human Rights*, Part B, History of Human Rights, Pgs. 14-26, Paul Gordon Lauren, *Human Rights: Visions Seen*, Chapter 5, Crusaders, Visions, and Proposals, Reader: 43-52

January 28, 2009, Rousseau, *Social Contract*, Chapter VI, Of the Law, Chapter VII, Of the Legislator: Reader: 53- 58; Thomas Paine, *Rights of Man*, Part the Second, of Constitutions; Reader: 59-80

January 30, 2009 Reader: 81-89, *United States Bill of Rights*, Reader: 90-91, *French Declaration of Rights of Man*.

Week 3 Evolution of the Modern Human Rights Movement

February 2, 2009, Reader: 92-104 Rawls, *Theory of Justice*, “The Main Idea of the Theory of Justice. Review 2048 Website: www.2048.berkeley.edu

February 4, 2009, Reader: 105-120, Elizabeth Borgwardt, *A New Deal for the World*, Four Freedoms and Atlantic Charter, Reader: 121-128, Allida M. Black, *The Political Writings of Eleanor Roosevelt*, “The Promise of Human Rights”;

February 6, 2009, Reader: 129-135, Mary Ann Glendon, *A World Made New*, “A Philosophical Investigation.”; Reader: 1-5, *Universal Declaration of Human Rights*.

Week 4 United Nations Human Rights Procedures

February 9, 2009, Reader: 136-182, Mary Ann Glendon, *A World Made New* “The Declaration of Interdependence.”

February 11, 2009, Weissbrodt, *International Human Rights*, Procedures for Implementation of Human Rights, Commission on Human Rights/Human Rights Council, pages 252-266

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February 13, 2009, Weissbrodt, *International Human Rights*, Regional Institutions and Procedures, European Convention on Human Rights, pgs 311-325; Reader: 6-17, *European Convention on Human Rights*

Week 5 Regional and International Conventions on Human Rights

February 18, 2009, Reader: 183-207, Burleigh Wilkins, The European Convention on Human Rights, “International Human Rights and National Discretion”; “Margin of Appreciation.”

February 20, 2009, Reader: , 2048 Website: International Covenant on Economic, Social and Cultural Rights; 2048 Website: International Covenant on Civil and Political Rights, Reader: 208-219, Eleanor Roosevelt, “*Statement on Draft Covenant on Human Rights*,” *Reply to Attacks on U.S. Attitude Toward Human Rights Covenant*;

Week 6 Regional and International Human Rights Procedures

February 23, 2009, Weissbrodt, *International Human Rights*, Regional Institutions and Procedures, “Mechanisms for the Americas”, pgs 325- 333; 2048

February 25, 2009, Website: *Inter-American Convention on Human Rights*; “African Mechanisms” pgs 334-341; 2048 Website: *African Convention on Human Rights*, Reader: 18-22, *Arab Charter on Human Rights*

February 27, 2009, Weissbrodt, *International Human Rights*, Regional Institutions and Procedures, “Mechanisms for the Americas”, pgs 325- 333; 2048 Website: *Inter-American Convention on Human Rights*; “African Mechanisms” pgs 334-341; 2048 Website: *African Convention on Human Rights*, Reader: 18-22, *Arab Charter on Human Rights*

Week 7 International Criminal Court

March 2, 2009, Weissbrodt, *International Human Rights*, “International Criminal Procedures” pgs 296-310.

March 4, 2009, Reader: 270-291, James Nickel, *Is Today’s International Human Rights System a Global Governance Regime?*; Reader: 292-298, Mary Ann Glendon, *A World Made New* “The Declaration Today;” Reader: 299-317, Jeffrey D. Sachs, *Common Wealth*, Chapter 12 “Rethinking Foreign Policy.”

March 6, 2009 **MIDTERM EXAM**

Week 8 Particular Human Rights

March 9, 2009, Weissbrodt, *International Human Rights*, Particular Rights, Self-Determination, Equality and Nondiscrimination, Life. pgs 29-41; Reader: 23-29, Re-read *International Convention on Human Rights*.

March 11, 2009, (two days) Weissbrodt, *International Human Rights*, Particular Rights, Slavery, Torture pgs 42-58; Genocide, War Crimes, Terrorism, pgs 222-242; Reader: 318- 332, John Yoo, *War by Other Means*, Chapter 7, “Interrogation”; Reader: 358-360, Eleanor Roosevelt, “Must We Hate to Fight”; Reader: 361-371, Jonathan Simon, *Governing Through Crime*, “Power, Authority and Criminal Law,” *Race, the War on Crime, and Mass Imprisonment.*”

March 13, Same as March 11.

Week 9 Particular Human Rights

March 16, 2009, July 31, 2008, Weissbrodt, *International Human Rights*, Particular Rights, Property, Religion, Expression, Assembly pgs 91-119

March 18, 2009, Weissbrodt, *International Human Rights*, Particular Rights, Economic, Social and Cultural Rights, work, social security, pgs 120-135;

March 20, 2009, Reader:387-402, William F. Felice, *The Global New Deal*, Chapter 2, "International Political Economy and Economic and Social Human Rights."

Week 10 Spring Break

Week 11 Particular Human Rights

March 30, 2009, Weissbrodt, *International Human Rights*, Particular Rights, Economic, Social and Cultural Rights, Health Care, Food pgs. 136-150. Reader: 422-432, Maurice Cranston, *Human Rights, Real and Supposed*.

April 1, 2009, Weissbrodt, *International Human Rights*, Particular Rights, Economic, Social and Cultural Rights, education, culture pgs 177-188; Reader, 538-571, Scheffler, *Immigration and the Significance of Culture*.

April 3, 2009, Weissbrodt, *International Human Rights*, Particular Rights, Healthy Environment, pgs 189-196; Reader: 433-439, Jeffrey D. Sachs, *Common Wealth*, Chapter 4 "Global Solutions to Climate Change."

Week 12 Particular Human Rights

April 6, 2009, Weissbrodt, *International Human Rights*, Particular Rights, Education, pgs 169-177.

April 8, 2009, Weissbrodt, *International Human Rights*, Peace, pgs 203-211

April 10, 2009, Weissbrodt, *International Human Rights*, Conclusion, pgs 365-369.

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Week 13 Role of Courts and Human Rights

BEGIN PRESENTATION OF PAPERS BY STUDENTS.

April 13, 2009, Weissbrodt, *International Human Rights*, National Institutions and Procedures, pgs 342-352

April 15, 2009, Weissbrodt, *International Human Rights*, Truth and Reconciliation Commissions, pgs 353-358

April 17, 2009, Weissbrodt, *International Human Rights*, Nongovernmental Organizations pgs. 359-362

Week 14 Role of Courts and Human Rights

April 20, 2009, Reader, Ginsburg/Kagan, *Institutions and Public Law*, Chapter 10, Law, Courts and Politics, pgs. 572-594

April 22, 2009, Reader, Shapiro/Stone Sweet, *On Law, Politics, and Judicialization*, The Success of Judicial Review and Democracy, 596-631.

April 24, 2009, Reader, Ginsburg, *Judicial Review in New Democracies*, Courts in new Democracies. Pgs. 632-647

Week 15 Selection of Rights for Regional and International Documents

April 27, 2009, Reader: 465-476, Rawls, *Political Liberalism*, “The Idea of an Overlapping Consensus.” Presentation of papers by students.

April 29, 2009, Reader: 477-489, Mary Ann Glendon, *A World Made New* “Universality Under Siege;” Presentation of papers by students.

May 1, 2009, Reader: 490-510, Jeffrey D. Sachs, *Common Wealth*, Chapter 13 “Achieving Global Goals.” Presentation of papers by students.

Week 15 Future Vision for Human Rights

May 4, 2009, Reader: 511-537, Jeffrey D. Sachs, *Common Wealth*, Chapter 14 “The Power of One.” Presentation of papers by students.

May 6, 2009, Reader, Richard Falk, *Human Rights Horizons*, The Extension of Human Rights to Past and Future Generations, pgs. 648-659

May 8, 2009, Draft International Convention on Human Rights, 2048 Project Website.

Week 16 Conclusion

May 11, 2009, Final Thoughts

FINAL PAPERS DUE

