

SEMESTER AT SEA COURSE SYLLABUS

Voyage: Spring 2014
Discipline: History
Course Title: *HIST 2559-102, International Human Rights*
Upper/Lower Division: *Lower*
Faculty Name: Robert K. Brigham

Pre-requisites: None

COURSE DESCRIPTION:

Human rights have become the dominant moral language of our time. Rights are used to help build civil society, to establish international law, to give the oppressed hope, and even to justify foreign military intervention. When we speak of rights, then, we speak of a ubiquitous presence in our world. How did this come to be? This course examines the historical development of international human rights from their definition by the United Nations in 1948 to the present day. Our main questions will be how a powerful discourse of human rights has developed, who has spoken on its behalf, and how human rights claims have intersected with existing political, institutional, and legal structures.

COURSE OBJECTIVES:

Upon successful completion of this course students will be able to:

- Identify the major human rights treaties and agreements since 1948.
- Analyze the major components of the Nuremberg and Tokyo Trials.
- Discuss the origins and development of international humanitarian law.
- Explain the role of the Helsinki Accords in the modern human rights regime.
- Identify the major elements of transitional justice theory.
- Analyze the effectiveness of South Africa's Truth and Reconciliation Commission.
- Describe the function of a human right commission.
- Discuss the origins and evolution of the International Criminal Court.
- Identify key elements of the Laws of War as they pertain to torture.

REQUIRED TEXTBOOKS:

AUTHOR: Mary Ann Glendon,
TITLE: *A World Made New*
PUBLISHER: Random House
ISBN #: 978 0375 760464

DATE/EDITION: 2002
AUTHOR: Benedict Rogers
TITLE: *Burma: A Nation at the Crossroads*
PUBLISHER: Random House
ISBN#: 9781846043468
DATE: 2013

AUTHOR: Ruti Teitel
TITLE: *Transitional Justice*
PUBLISHER: Oxford
ISBN#: 9780195151268
DATE: 2002

TOPICAL OUTLINE OF COURSE

A1: Course Introduction

A2: What are Human Rights?

Required Reading: Eric Weitz, "Why Its Time for a Much More Critical History of Human Rights," <http://hnn.us/articles/120358.html> and Kenneth Cmiel, "The Recent History of Human Rights," *American Historical Review*, v. 109, no. 1 (February 2004). JSTOR.

Questions:

What did traditional human rights studies emphasize? Why does Weitz think we need to revise our understanding of human rights? What are critical human rights? How has the scholarship on human rights history evolved over the past decade?

A3: Global Human Rights?

Required Reading: "The Atlantic Charter" at <http://avalon.law.yale.edu/wwii/atlantic.asp>

Questions:

Was the Atlantic Charter a human rights agreement? What were the major components of the Atlantic Charter? How does the Atlantic Charter relate to Roosevelt's Four Freedoms? Did Churchill support a human rights interpretation of the Atlantic Charter?

A4: Universal Declaration of Human Rights

Required Reading: Glendon, *A World Made New*

Questions:

What were the key provisions of the Universal Declaration? Were these rights binding, or merely inspirational? How were rights conferred? Who backed these rights?

A5: Global Legalism: Nuremberg

Required Reading: Liz Borgwardt, "A New Deal for the Nuremberg Trial," *Law and History Review* (Fall 2008) at:
<http://www.historycooperative.org/journals/lhr/26.3/borgwardt.html>

Questions:

Why does Borgwardt think the Nuremberg Trial was the beginning of global legalism? What were the key aspects of international criminal law and international humanitarian law that were enhanced by Nuremberg? Why did critics think Nuremberg was simply victor's justice?

A6: The Tokyo Trials

Required Reading: "The International Military Tribunal for East Asia," at
http://www.army.mil/article/48334/The_Tokyo_Trials_/

Questions:

What are the major differences between the Nuremberg Trial and the Tokyo Trials? What role did global politics play in shaping the conduct and outcome of the Trial? Why was the Emperor restored?

Writing Assignment: The Human Rights Regime

Many human rights scholars believe that the late 1940s was a golden era for human rights because of the flurry of activity at the United Nations and in Nuremberg and Tokyo. They argue that the Universal Declaration of Human Rights was a good first step in establishing global norms on human rights and they anticipated that states would later codify most of the Declaration's provisions. Likewise, many legal experts see the two post-war trials as the beginnings of global legalism and a serious global commitment to international humanitarian law and international criminal law. In an essay of 1,000 words (typed, double

spaced, pages numbered) students are asked to assess this positive argument about the late 1940s and the beginning of an international human rights regime. Are these scholars correct? Was the late 1940s the first step toward transnational human rights? Did the Nuremberg and Tokyo trials add significantly to international law and human rights? Was the Declaration more than an aspirational document?

A7: International Humanitarian Law

Required Reading: “What is International Humanitarian Law,” International Committee of the Red Cross, (PDF) and <http://www.icrc.org/ihl>

Questions:

What are the origins of international humanitarian law (IHL)? How did the law evolve over time? What should we know about IHL for the world we live in today? How has IHL been tested recently?

A8: The Viet Nam War and Mass Atrocities

Required Reading: Richard Falk, “International Law and the U.S. Role in Vietnam,” *The Yale Law Journal* 76 (May 1967): 1095-1158. JSTOR.

Questions:

Why does Falk think IHL had a more dramatic role to play in Vietnam and why were the number of prosecutions so low? Could there have been a way to ensure the communist troops and Hanoi’s military leaders also face IHL inquiries? What impact did the Viet Nam War have on IHL?

A9: Human Rights in Postwar Viet Nam

Required Reading: Human Rights Watch Asia, at <http://www.hrw.org/asia/vietnam>

Questions:

What have been the major human rights issues in postwar Viet Nam? Has the government in Hanoi acknowledged human rights abuses by a few? What specific steps has Viet Nam taken to address global human rights concerns? What do leaders in Viet Nam think about a regional approach to human rights?

A10: Human Rights and Burma

Required Reading: Benedict Rogers, *Burma: A Nation at the Crossroads*

Questions:

What have been the major human rights issues in Burma in the last three decades? How has international pressure affected human rights in Burma? Has Burma transitioned to a new phase of human rights readiness? If so, what are the prospects for change?

A11: Burma in Transition

Required Reading: "In Focus: Burma," in *The Atlantic on line* at <http://www.theatlantic.com/infocus/2012/06/burma-in-transition/100316/>

Questions:

What are the major changes in human rights policy in Burma in recent years? How has the national government codified these changes? Does the government sustain human rights by adherence to international treaties and covenants inside of Burma? How are rights conferred in Burma? What legal redress do ordinary citizens have if they feel they human rights have been violated?

FIELD WORK

***FIELD LAB** (At least 20 percent of the contact hours for each course, to be led by the instructor.)*

We will visit with government officials, leaders of various NGOs connected to human rights in Burma, and officials with Burma's National Human Rights Commission. During these meetings, we will discuss issues of child trafficking, human rights, political reform, and international law in a Burmese context.

Field Lab Writing Assignment

Students will write a 1,500-word essay (typed, double spaced, pages numbered) that explores international concerns about human rights inside Burma today and the ways in which the current government has tried to address universal norms. Students will gauge whether the government has made enough progress to warrant the recent lifting of sanctions by the United States and much of the West, and if there is a strong commitment in Burma to enhancing the international human rights regime. . This paper is worth 20% of the student's overall grade.

Field Lab Journals

Students will keep a writing journal and assess the legal human rights regime in at least three parts of call. Students will meet with me in office hours to discuss their journal, and a formal assessment of the journal will be done at the end of the semester. The journal is worth 10% of the student's overall grade.

A12: The Helsinki Accords

Required Reading: Anne F. Bayefsky, "Human Rights: The Helsinki Process," *Proceedings of the Annual Meeting of the American Society of International Law* 84 (March 1990): 113-130, JSTOR.

Questions:

What was the Helsinki Process? Why did so few Western political leaders understand the geopolitical potential of the Helsinki Accords at the time? What was the result of "basket three"? What role did the Helsinki Accords play in the reform movement inside the eastern bloc?

A13: Lecture: An International Human Rights Regime?

A14: Transitional Justice Theory

Required Reading: Teital, *Transitional Justice*, pp. 3-148.

Questions:

What are the major tenets of transitional justice theory? How did the theory develop? Who has been the main supporters of transitional justice and why? Is transitional justice effective in all cases? What could be done to improve transitional justice programs?

A15: Transitional Justice in Action

Required Reading: Teital, *Transitional Justice*, pp. 149-230.

Questions:

Under what conditions does transitional justice work best? Where has a transitional justice

program succeeded remarkably well? What factors can contribute to the success of a transitional justice program?

Writing Assignment: Transitional Justice Paper

Transitional justice theory has been at the center of many international efforts to move societies in conflict toward civil society. One difficulty in overseeing transitional justice projects has been their complicated nature. In an essay of 1,500 words (typed, double spaced, pages numbered) students are asked to write about the legal, constitutional, cultural, social, and political complexities of transitional justice. Some questions to consider: What are the major goals of transitional justice programs? How has transitional justice worked in conflict torn societies? What could be done to improve local capacity to move toward civil society?

A16: Truth and Reconciliation in South Africa

Required Reading: Jam Gibson, "The Truth about Truth and Reconciliation in South Africa," *International Political Science Review*, 26 (October 2005): 341-361. JSTOR.

Questions:

What are the major features of South Africa's Truth and Reconciliation program? Why did South African leaders select this process for normalization? Was the process successful? What could have been changed to make the program more affective?

A17: South Africa's Human Rights Commission

Required Reading: "The Role of HR Commissions in Transitional Justice," at <http://www.southafrica.info/about/democracy/sahrc.htm#.UGsFABitiPc>

Questions:

What role does the Human Rights Commission play in the new constitutional government? Has it helped produce elements of civil society? Does the Commission have enough capacity to do much good? Are the constitutional protections enough of a mandate for the Human Rights Commission?

A18: South Africa's Human Rights Constitution

Required Reading: The Constitution of South Africa, at <http://www.info.gov.za/documents/constitution/>

Questions:

What are the major provisions of the South African constitution dealing with human rights? Does the constitution explain how rights are enumerated and enforced? Is there enough constitutional capacity in South Africa's human rights regime? What could be done to improve South Africa's constitution with respect to human rights?

A19: The International Criminal Court

Required Reading: The Birth of the International Criminal Court
The Rome Statutes at <http://www.icc-cpi.int/Menus/ICC/Legal+Texts+and+Tools/Official+Journal/Rome+Statute.htm> and David Scheffer, "Staying the Course with the International Criminal Court," *Cornell International Law Journal* 35 (2002), LexisNexis at <http://www.lexisnexis.com/hottopics/lnacademic/>

Questions:

Why did president Clinton support the creation of the International Criminal Court? Why did U.S. Ambassador David Scheffer vote against creation of the Court in Rome in 1998? Why did Clinton decide to sign the Rome Treaty in December 2000? What is the primary function of the Court? What role does the prosecutor play in the functioning of the Court? What is the relationship of the Court to its members and to the United Nations?

A20: Legal Critics of the Court

Required Reading: John R. Bolton, "The Risks and Weaknesses of the International Criminal Court," *Law and Contemporary Problems* 167 (Winter 2001) at <http://www.law.duke.edu/shell/cite.pl?64+Law+&+Contemp.+Probs.+167+%28Winter+2001%29>

Questions:

What are Bolton's major objections to the International Criminal Court? Is he correct about the Court's weakness? Is he correct about American service men and women and the function of the Court? What is complementarity? Does the Court function well today?

Writing Assignment: Criticisms of the ICC

After reading Bolton's criticisms of the International Criminal Court, students are asked to write an essay of 1,500 words (typed, double spaced, pages numbered) that addresses his complaints. Students should work their way through Bolton's list of problems with the Court and address each one. In some cases, you may agree with Bolton, in other areas you may not. Your goal here is to use your knowledge of international criminal law to address each issue raised in his essay.

A21: The Laws of War

Required Reading: Adam Roberts, "The Equal Application of the Laws of War: A Principle Under Pressure," *International Review of the Red Cross* 90 (December 2008): 931-962 at <http://www.icrc.org/eng/resources/documents/article/review/review-872-p931.htm>

Questions:

What does Roberts think is the major problem with the application of the Laws of War today? How has the Iraq War and the U.S. Justice Department's decisions of the 2003-2007 period affected the Laws of War? Has president Obama reversed the earlier Justice Department decisions on torture?

A22: Human Rights Law and American Exceptionalism

Required Reading: Harold H. Koh, "On American Exceptionalism," *Stanford Law Review* 55 (May 2003): 1479-1527. JSTOR.

Questions:

What does Koh think are the major obstacles for the U.S. in joining the international human rights regime? What advice did he give the Obama administration on human rights and international law? Does Koh think American exceptionalism is indefensible on all grounds?

A23: Lecture: Humanitarian Intervention in the Middle East?

A 24: Final Exam Review

A25: A Day Finals

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Field Lab Journals

Students will keep a writing journal and assess the legal human rights regime in at least three ports of call. Students will meet with me in office hours to discuss their journal, and a formal assessment of the journal will be done at the end of the semester. The journal is worth 10% of the student's overall grade.

METHODS OF EVALUATION / GRADING RUBRIC

Each student is required to write: an essay on legal human rights regime in the late 1940s, (1,000 words, typed, double-space, pages numbered); a paper on the theory of transitional justice (1,000 words, typed, double-spaced), a field lab essay (1,500 words, typed, double spaced, pages numbered), and a 1,500-word essay on the International Criminal Court (typed, double-spaced, pages numbered). In addition, students will keep a writing journal and assess the legal human rights regime in at least three ports of call. Students will meet with me in office hours to discuss their journal, and a formal assessment of the journal will be done at the end of the semester. All students are required to sit for a final exam. Students should attend class and will be graded on their participation. Participation is defined as obvious evidence in class of engagement with the assigned readings. This evidence will be presented in class through regular interventions in our discussion based on the readings. Laptops are allowed in class, but they must be used for note-taking and document research only.

Attendance and Participation	10%
Field Lab Writing Assignment	20%
Field Lab Journal	10%

Legal Regime of 1940s paper	10%
Transitional Theory paper	10%
ICC paper	20%
Final Exam	20%

ADDITIONAL RESOURCES

The U.N.'s Responsibility to Protect at <http://www.responsibilitytoprotect.org/>

The University of Minnesota Human Rights Library:
<http://www1.umn.edu/humanrts/lawform.html>

University of California at Berkeley, Institute of International Studies, Human Rights Bibliography:
<http://hrc.berkeley.edu/bibliography.html>

Irish Centre for Human Rights:
<http://www.humanrightsdoctorate.blogspot.com/>

United Nations Human Rights Commission:
<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

United Nations High Commission on Refugees:
<http://www.unhcr.ch/>

International Criminal Court:
<http://www.icc-cpi.int/Menus/ICC?lan=en-GB>

University of Chicago, Human Rights Bibliography and Research Guide:
<http://www2.lib.uchicago.edu/~llou/humanrights.html>

International Committee of the Red Cross website, contains much information on International Law:
<http://www.icrc.org/>

International Criminal Tribunal for Rwanda:
<http://www.unictr.org/>

International Criminal Tribunal for the Former Yugoslavia:
<http://www.unictr.org/>

The Special Court for Sierra Leone:
<http://www.sc-sl.org/>

The National Security Archives
<http://www.gwu.edu/~nsarchiv/>

Eyes on the ICC, the only journal devoted exclusively to the study of the International Criminal Court
<http://www.americanstudents.us/journals/eyeso>

The State Department's Foreign Relations of the United States series, on line version
http://www.state.gov/www/about_state/history/frus.html
Also available in the Library at S 1.1. in the Government Documents Section

Diplomatic History, the journal of the Society for Historians of American Foreign Relations
<http://onlinelibrary.wiley.com/journal/10.1111/%28ISSN%291467-7709>
Also available in the Library at E183.7.D48

The Encyclopedia of Human Rights
<http://www.oxford-humanrights.com/?authstatuscode=202>

HONOR CODE

Semester at Sea students enroll in an academic program administered by the University of Virginia, and thus bind themselves to the University's honor code. The code prohibits all acts of lying, cheating, and stealing. Please consult the Voyager's Handbook for further explanation of what constitutes an honor offense.

Each written assignment for this course must be pledged by the student as follows: "On my honor as a student, I pledge that I have neither given nor received aid on this assignment." The pledge must be signed, or, in the case of an electronic file, signed "[signed]."