

(Topics in) International Law: Public International Law and Human Rights
INT 366-901, PSC 361-901, INT 410-301
Arts and Letters 201, T: 6-9:00

Instructor Information

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The class comprises three main areas of learning in the field of international legal studies:

- (1) a brief but intense introduction to international law, especially public international law (mainly, law between and among nation states) and transnational legal process;
- (2) human rights studies (my name for a combination of history, doctrine, theory and case study in human rights law);
- (3) the international legal principle of responsibility to protect and its relationship to international humanitarian law and human rights.*

*Regarding terminology: *human rights (HR)* is a catchall phrase and, depending on the perspective, may point toward any of the following (and more, I'm sure): law/lawyers/judges/commission, etc., norms, values, ethics, nature, religion, praxis, movements, culture, discourse, hegemony, imperialism or political economy. A main learning goal for the course will be to figure out the various ways people give meaning to HR through their thought and actions at different times and places. Human rights as a movement or project has taken shape over time through political interventions and social dynamics and, thus, is lived and changing, certainly not static, "as written," somehow only in occasional need of judicial interpretation or legislative expansion.

Humanitarian law refers generally to the rules that apply during violent conflict (war), the rules by which broad scale lethal violence and property destruction are legally sanctioned. Recently, proponents of "humanitarian intervention" and "responsibility to protect" have argued that force/violence and other coercive actions by nation states against others may be justified in the name of human rights protection, causing some to see these constructs as the place where international humanitarian law (protecting civilians in times of war) and human rights meet.

We will start with an introduction to international law, more or less as it might be conceived and taught in law school and move quickly toward an understanding of human rights law, again as it is often taught in law school, as something like a corollary or foil to public international (interstate) law. We read Samuel Moyn's recent history of human rights The Last Utopia, while considering a variety of critical legal perspectives on rights in general and the human rights project specifically. Subsequently, we read case studies involving the World Bank (Galit Sarfaty, Values in Translation: Human Rights and the Culture of the World Bank) and intellectual property regimes (Angeline Snodgrass Godoy, Of Medicine and Markets: Intellectual Property and Human Rights in the Free Trade Era) that provide greater insight to our understanding of the ways human rights work in relation to contemporary regimes of power and wealth.

In the latter part of the quarter we will examine responsibility to protect, an asserted and developing principle of international law that posits a putatively responsible, potentially coercive international executive authority (effectively as sanctioned by the UN Security Council) that can act when states fail to carry out their responsibilities toward civilians during conflicts or otherwise violate the most fundamental norms of humanitarianism and human rights. We will read Anne Orford's book on the history and problems with international executive authority (International Authority and the Responsibility to Protect) and examine the case of NATO's Libyan intervention as an example of responsibility to protect (R2P) in action.

During the quarter we will also read primary legal texts and study related processes of actually existing international and human rights law. Such texts include the UN Declaration on Human Rights (as a statement of customary international law?), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as other treaty sources that the readings incorporate. However, the course is in no way a "black-letter" law survey or professional training course in public international law or human rights.

4 major written submissions are required in the course, 2 involving independent research and thought and 2 essay responses to prompts I will distribute over the assigned readings. For the first part of the course your research and analysis assignment will involve one of the recently proposed multilateral free trade agreements (e.g., Trans-Pacific Partnership Agreement or Trans-Atlantic Trade and Investment Partnership Agreement). See generally <https://ustr.gov/tpp>. The goal

will be to write a critical essay, informed by Snodgrass Godoy's book on CAFTA and human rights, analyzing the relationship between human rights and free trade as it can be discerned from the proposed trade agreement and the processes by which the agreement has been created.

The second major research and writing assignment is focused on the 2011 Security Council endorsed Libyan intervention by NATO forces under the principle of responsibility to protect (see UNSC Resolution 1973, 2011). For this paper you will consider Orford's historically informed critique of international executive authority in dissecting the case of the Libyan R2P intervention.

Throughout the quarter we will use class time to discuss the readings, which sometimes might best be done in a class of this size by breaking out into smaller groups, and to elaborate on the readings through engagement of primary legal documents. We will discuss the readings together in part through a random process of my calling out students, so you should be prepared every day.

Class Privacy and Decorum

1. No operating computer or electronic communications devices are allowed in the classroom. No recording or transmission of any kind may be made of the class. Please turn off all electronic devices during class. Any detrimental breach of classroom privacy and confidentiality is a violation of academic freedom and may be cause for appropriate disciplinary action. PLEASE HAVE A HARD COPY OF ALL ASSIGNED READINGS WITH YOU IN CLASS. We will often be discussing the readings for 2 or more weeks after they are assigned, so bring the previous 2 weeks' readings to class as well.
2. Formal meeting speaker protocol. This means I moderate a discussion with one speaker recognized to speak at a time. I will do my best to take comments via informal FIFO speakers list –arranged in the order in which I see a person's hand raised. I may also use moderator discretion to allow civil “back and forth” responses and counter-responses when I think it benefits the class. No personal attacks are allowed and use of profanity that may offend should be kept to a minimum.

The object and purpose of classroom discussions and interaction is learning. Offensive speech that negatively affects another student's learning environment

frustrates the fundamental goals of the class and will be cause for intervention. Everyone has an equal right to an unintimidating and welcoming class room environment. Violation of that right requires rectification and remedy.

Evaluation Breakdown

Please note: this syllabus is not a legal contract. I reserve the right as course instructor to alter the syllabus to enhance course learning. I will give due notice of any such changes.

Preparation, Attendance, Participation, Quizzes 15 pts.

Attendance at every class session is required. Late arriving or walking out of class will be penalized as it detracts from everyone's learning environment. Informed and "on point" participation is expected and rewarded. If you have to miss a class, there is really no way of not having this negatively impact your participation grade. Excused absences for illness or other major exigency can be offset in the final grade through extra credit worked out with me on a case by case basis.

Informed participation is the gold standard. Generally, the more of it the better, but I will try to make sure everyone has a chance and is encouraged to speak. If you have a hard time thinking of what to say in class, try formulating some questions on the readings in advance of class. I may try to get you to answer the question you pose (usually by having you explain what is puzzling or confusing), but at least it might feel like a less intimidating way to get involved in the discussion.

From time to time I may give a quiz on the readings as a way of spot-checking that everyone is prepared and making connections with the material.

Again, no laptops, cell phones, recording devices or other electronic equipment allowed during class. Please bring a hard copy of all readings for the current and previous 2 weeks.

Course Segment Essays (on the readings) x 2 15 pts.
15 pts.

Take home and return to D2L per schedule below (3-4 pages each).

Careers in International Law/Legal Pedagogy Activity 5 pts.

1-2 pages to D2L before 10th week class meeting.

Option A: These short reports should present research on the work and the people working in a field such as human rights advocacy or another area of international law. How does one get into this kind of work? What qualifications does one need? What is the work life like? Does this work seem interesting to you?

Option B: Read Duncan Kennedy's essay "Legal Education as Reproduction of Hierarchy" and write a response or commentary.

Film Response x 2

2 short (1-2 page) response papers by the due dates given below.

<i>Judgment at Nuremberg</i> (4/14)	5 pts.
Choose a film from list provided (5/19)	5 pts.

Case Research and Analysis x 2

4-5 pages to D2L per schedule 15 pts. x 2

Annotated Bibliography with 5 quality sources 5 pts. x 2

- 1) Free Trade Research and Analysis (5/2)
- 2) Libya/R2P Research and Analysis (6/2)

See description above. Free trade agreements and human rights (4-5 pages), using Snodgrass Godoy + your research, and R2P/Libya, using Orford's critical framework and your research (4-5 pages).

Required Books (available only early in the quarter at the bookstore)

Samuel Moyn, The Last Utopia: Human Rights in History (Harvard Belknap, 2010)

Angeline Snodgrass Godoy, Of Medicines and Markets: Intellectual Property and Human Rights in the Free Trade Era (Stanford UP, 2013).

Galit Sarfaty, Values in Translation: Human Rights and the Culture of the World Bank (Stanford UP, 2012).

Anne Orford, International Authority and Responsibility to Protect (Cambridge UP, 2011)

Other Readings (see D2L content/readings)

Assignments

Week 1 (March 31)

Readings:

- 1) Beckman and Butte, "Introduction to International Law"
<https://www.ilsa.org/jessup/intlawintro.pdf>
- 2) David Kennedy, "Spring Break"
- 3) Fred Kirgis, "Enforcement of International Law"
<http://www.asil.org/insights/volume/1/issue/1/enforcing-international-law>

Week 2 (April 7)

Readings:

- 1) Harold Koh, "Transnational Legal Process," available at:
http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2902&context=fss_papers
- 2) Harold Koh, Transcript of Ryan Lecture at Georgetown Law, D2L [also a video of the lecture available online, roughly 90 minutes]
- 3) Moyn, The Last Utopia, Prologue and Chs. 1-2

Week 3 (April 14)

Reading:

- 1) Moyn, Chs. 3-5 and Epilogue

1st Film Response Paper on *Judgment at Nuremberg* DUE to D2L before class

Graduate Student Presentation: Nicolas Guilhot, The Democracy Makers, Chs. 1, 2, 5 (my copy) _____

Course Segment Essay # 1 available

Course Segment Essay #1 DUE: F April 17, 5 p.m. to D2L drop box

Week 4 (April 21)

Reading:

- 1) Snodgrass Godoy, Of Medicines and Markets, Chs. 1-3

Annotated Bibliography Due to D2L by F, April 24 for Free Trade Project (5 quality sources)

Week 5 (April 28)

Readings:

- 1) Snodgrass Godoy, Chs. 4-6

Free Trade Research and Analysis Project DUE F May 2 at 5 p.m.

Week 6 (May 5)

Readings:

- 1) Sarfaty, Values in Translation, Chs. 1-2

Graduate Student Presentation: Makau Mutua, “Savages, Victims, Saviors: The Metaphor of Human Rights” (pdf) _____

Week 7 (May 12)

Readings:

- 1) Sarfaty, Chs. 3-5

Graduate Student Presentation: Duncan Kennedy, “The Critique of Rights in Critical Legal Studies,” pp. 178- 224, available at:
[http://duncankennedy.net/documents/The Critique of Rights in cls.pdf](http://duncankennedy.net/documents/The%20Critique%20of%20Rights%20in%20cls.pdf)

Course Segment Essay #2 available

Course Segment Essay #2 DUE: F May 15 by 5 p.m. to D2L

Week 8 (May 19)

Reading:

- 1) Orford, International Authority and R2P, chs. 1-2

2nd Film Response paper [choose from list] DUE to D2L before class

Week 9 (May 26)

Reading:

- 1) Orford, chs. 3-5

Annotated Bibliography DUE for R2P/Libya Research and Analysis Project

(5 quality sources)

Week 10 (June 2)

Reading: Option A: Career Research and Report
 Option B: Duncan Kennedy, “Legal Education as Reproduction of Hierarchy”

**R2P/Libya Research and Analysis Project Due to D2L
June 5, 5 p.m.**