SYLLABUS

INTERNATIONAL HUMAN RIGHTS LAW – SUMMER 2019

1. Instructor, time and place:
Professor Emercio Jose Aponte, Law School, email emercio32@gmail.com Office hours: by appointment; please email or phone to schedule an appointment. If you have questions that are not resolved by the readings or class discussion, or in fact if you would like to talk about anything at all, please do not hesitate to email or to see me.
Course meets Tuesday and Thursday, from 8.10 PM to 10.00 PM, in the law school.

2. Methodology and textbooks
The course will be principally taught through in-class discussions, as well as lectures. Students should read the material for each class in advance to have an appropriate in-class discussions. The main textbook is Daniel Moeckli et al., eds., INTERNATIONAL HUMAN RIGHTS LAW (Oxford Univ. Press 2018) (referred to in the syllabus below as “M”)
Additional materials will be emailed to students before class; most will be edited by the instructor for brevity and focus. Full texts of most UN human rights instruments can be found at the web site of the UN High Commissioner for Human Rights, www.ohchr.org/international.

3. Assignments and grading criteria
Course grades will be determined based on a three hours final exam (100%). Class participation will be considered in determining course grades. Class participation includes attendance, the quality of students’ questions, and the quality of students’ contributions to class discussions and exercises. Exceptionally strong participation will raise students’ grade one “step” (e.g., from a B to a B+)

4. Course schedule and reading assignments
I. FOUNDATIONS

Class No. 1 – Human Rights
- Overview of the course and assignments
- What are human rights? Objective, Subjective and scientific approach.
- Four Schools of Thought: Approach adopted by international law sources.
- Characteristics
- Classification of human rights
Readings
M. Chapter 7.

Classes Nos. 2 and 3 – Human Rights Law: History, domestic and international plane

- Human rights on the domestic plane
- Human rights on the international plane
- The relationship between the national and the international plane. The margin of appreciation.
- What is International Human Rights Law ("IHRL")?
- What is National Human Rights Law?
- Could we talk about the existence of Human Rights Law?

Readings
M. Chapter 1.
M. Chapter 24.

II. INTERNATIONAL LAW

Classes No. 4 and 5 – Sources of International Human Rights Law

- Introduction
- Human Rights treaties: Living instruments.
- Customary International Law
- Ius Cogens
- General Principles: Pro-hominí principle
- Judicial decisions: Control of Conventionality
- Resolutions of International Institutions
- Human Rights Declarations: The Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man

Readings
M. Chapter 4.
Universal Declaration of Human Rights
Substantive articles of International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights
Inter-American Convention on Human Rights
Vienna Declaration, World Conference on Human Rights (1993) (excerpts)

Classes Nos. 6 and 7 – Nature and scope of Obligations

- Who has human rights obligations?
- What is the fundamental nature of human rights obligations?
• Special character of human rights obligations: Vertical Dimension.
• Obligation to respect, protect, and fulfill.
• Degrees of human rights obligations.
• Human rights and states of exception: Derogation regime.
• Who has human rights?
• Remedies for human rights violations.

**Readings**
M. Chapters 5 and 6.

**III. PROTECTION**

**Class No. 8 – Systems of Protection: United Nations**

• UN Charter-based mechanisms:
  • The Human Rights Council
  • The Office of the UN High Commissioner for Human Rights
  • Human rights activities in other parts of the UN
  • UN treaty-based mechanisms

**Readings**
M. Chapter 19.

**Class No. 9 - Systems of Protection: The Americas**

• Historic overview
  • The Inter-American System: Its structure
  • The Inter-American Commission on Human Rights
  • The Inter-American Court of Human Rights
  • The Inter-American Instruments
  • The control of conventionality.

**Readings**
M. Chapter 21.
The International Validity of the Venezuelan Denunciation of the American Convention on Human Rights

**Class No. 10 - Systems of Protection: Europe**

• Introduction
  • The Council of Europe
  • The European Convention on Human Rights.
  • The European Court of Human Rights
  • The European Union

**Readings**
M. Chapter 22.
Class No. 11 - Systems of Protection: Africa

- Historical overview
- The African Charter and other relevant treaties
- The protective mechanisms
- The African Commission
- The African Court

Readings
M. Chapter 23.

IV. SUBSTANTIVE RIGHTS

Class No. 12 – Substantive rights: Equality and Non-Discrimination

- The meaning of equality and non-discrimination: Do we have differences?
- Formal equality
- Substantive Equality
- Discrimination in treatment and discrimination in outcome: Permissibility.
- Justified and unjustified distinctions

Readings
M. Chapter 8.

Class No. 13 – Substantive rights: Integrity of Persons

- Introduction.
- The right to respect the integrity of the person.
- The right to be free from torture and ill-treatment.
- The absolute prohibition of torture.
- The prohibition of torture as an international norm of ius cogens.

Readings
M. Chapter 9, pages 165 to 174.
Case of Ireland v. The United Kingdom. European Court of Human Rights. Judgment 18 January 1978

Class No. 14 – Substantive rights: Thought, Expression, Association and Assembly

- Four freedoms and their relationships
- Freedom of thought, conscience, and religion: Sources, scope, limitations
- Freedom of opinion and expression: Sources, scope, limitations, dual dimension.
- Freedom of Association: Sources, scope, limitations
• Freedom of Assembly: Sources, scope, limitations

Readings

M. Chapter 11.

**Class No. 15 – Substantive rights: Education and work**

• Introduction
• The right to education: Sources, aims of education, type of obligation, relationship with other human rights.
• The right to education: Access to education on a non-discrimination basis; right to enjoy a free and compulsory primary education; free choice of education; to be educated in the language of one’s own choice.
• The right to work: Sources, components, obligations, relationship with other human rights.
• The right to work: Freedom from slavery; forced or compulsory labor; freedom to work; principle of non-discrimination and equal treatment; the right to seek a work.

Readings

M. Chapter 12.

V. LINKAGES

**Classes 16 and 17. Human Trafficking**

• What is human trafficking?
• Element of human trafficking: The act, the Means, and the Purpose.
• What Does Human Trafficking Look Like?
• How is human trafficking different from migrant smuggling?
• Myths and Misconceptions.
• Indicators of Human Trafficking.
• Immigration relief for foreign victims of human trafficking: A Victim-Centered Approach. Continued Presence (CP), T Visas

Readings

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children
Classes No. 18 and 19 – Gross violations of human rights: International Criminal Law

- Human rights law and international crimes
- State obligations in response to gross violations of human rights
- UN Principles on Remedy and Reparation
- UN Principles on Impunity
- Genocide, Crimes Against Humanity, War Crimes, and Aggression
- Prosecution: International and National
- Country study: Venezuela and crimes against humanity

Readings

M. Chapter 26.

UN GA Res. 60/147 (2005), Adopting *Basic Principles and Guidelines on the Right to a Remedy and Reparation*


Class No. 20 – International Refugee Law and human rights

- Introduction
- What is international refugee law?
- Fundamental elements of international refugee law
- Relationship between the two bodies of law
- Human rights and refugee status
- Refuge *non-refoulment* and human rights

Readings

M. Chapter 27.
8 CFR 1208.1(b)