

International Protection of Human Rights
Fall 2023

Professor: Prof. Dr. Adam Dubin

Department: International Public Law

Credits: 6 ECTS

Level: Elective Course for 4th year Law and IR students & International Exchange students

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Link to class material: [Click here](#)

Course Overview:

Welcome!

Now is an exciting time to learn about human rights. From building walls to silencing political opponents to providing clean water to all, there is a lot to discuss! Students will develop both the theoretical and practical knowledge to enable them to think critically about human rights protection and corresponding mechanisms at international and regional levels. In particular, we will analyze the most important treaties and organizations that protect human rights, and raise critical questions about their effectiveness, focusing on how politics, sovereignty, culture and other factors impact human rights protection around the globe. Students will leave this course with a strong knowledge of human rights in international, regional and state contexts, and develop the analytical and legal skills to effectively advance human rights protection. I look forward to working with you this semester and getting to know each of you!

Please note that this class is not about memorization. While it is about understanding and comprehending the subject matter, on a larger scale, it's about thinking through the issues, expressing arguments and ideas in an articulate manner, applying theory to practice, and raising thoughtful and substantive questions and comments.

A few important points to keep in mind during this semester:

- It's important to stay on top of the reading. Don't leave it for the final exam.
- Arrive to class on time. I reserve the right to refuse you entry into class if you arrive more than 5 minutes after the scheduled start time.
- No speaking, especially while others are speaking.

Note: The "official" syllabus is on Moodle. Please take a moment to review it.

Assignment	Description	Value	Due Date
Final Assignment	5 case studies, open book.	60%	To be announced by the Dean's office
Mid-Term Assignment	U.N. Shadow Report, researched, written analysis. 8 pages p/p. Information provided on .	40%	November 2 nd by email to adubin@comillas.edu

Class	Topic	Reading
Session 1: September 7th	Class Introduction	Review Syllabus
Session 2: September 8th	Block 1: What are human rights?	Lee Donoho, D., <i>What are International Human Rights? in <u>International Human Rights Law</u></i> , Carolina Academic Press (2017). (labeled chapters 1 – 4)
Session 3: September 14th	Block 1: Basic Principles of Treaty Law	Lee Donoho, D., <i>Basic Principles of International Law Relevant to Human Rights</i> . (labeled chapters 1 – 4)
Session 4: September 15th	Block 1: Core Human Rights Treaties	Lee Donoho, D., <i>What Rights are Humans Entitled to Under International Law?</i> (labeled chapters 1 – 4)

Session 5: September 21st	Block 1: Human Rights Treaty Research and Interpretation Practicum	No prior reading
Session 6: September 22nd	Block 1: Domestic Incorporation of Human Rights	Lee Donoho, D., <i>International Rights as Domestic Obligations.</i> General Comment 15, Right to Water <i>Laxmi Mandel Case</i> (labeled chapters 1 – 4)
Session 7: September 28th	Block 1: American Exceptionalism Careers in human rights.	Ignatieff, M. <i>Introduction: American Exceptionalism and Human Rights</i>
Session 8: September 29th	Block 1: The United Nations Human Rights System: Part I – Charter System	Lee Donoho, D., <i>International Promotion and Enforcement Under the United Nations Charter Based System.</i> Gardiner, H., <i>Trump Administration Withdraws U.S. from the U.N. Human Rights Council</i>
Session 9: October 5th	Block 1: The United Nations Human Rights Treaty System: Part II – Treaty System	Lee Donoho, D., <i>International Promotion and Enforcement of Rights Through the U.N. Treaty Based System.</i> Mid-term assigned
Session 10: October 6th	Block 2: The European Human Rights System	The European Convention on Human Rights

		<p>Lee Donoho, D., <i>Regional Systems for the Protection of Human Rights: Introduction and Examination of the European System.</i></p> <p>n (April 19, 2011).</p>
Session 11: October 13th	<p>Block 2: Comparative Freedom of Expression: Europe and the U.S.</p>	<p><i>Virginia v. Black (U.S.)</i> (2003) <i>Snyder v. Phelps (U.S.)</i> (2011) <i>Norwood v. U.K. (Europe)</i> (2004) <i>PETA v. Germany (Europe)</i> (2012)</p> <p>United Nations General Comment 34 on Freedom of Opinion and Expression (2011)</p>
Session 12: October 19th	<p>Block 2: Comparative Freedom of Religion</p>	<p>United Nations General Comment No. 22 on Freedom of Thought, Conscience and Religion (1993)</p> <p><i>Lemon v. Kurtzman (U.S.)</i> (1971) <i>Lautsi v. Italy (Europe)</i> (2011) <i>Lukumi v. City of Hialeah (U.S.)</i> (1993) <i>Dogru v. France (Europe)</i> (2008)</p>
Session 13: October 20th	<p>Block 2: The African Human Rights System Part</p> <p>This class will be rescheduled due to a work trip</p>	<p>Lee Donoho, D, <i>Regional Human Rights: The Inter-American and African Systems.</i> (only part on Africa)</p>

Session 14: October 26th	Class canceled because of a work trip. Class will be made up as a review session.	
Session 15: October 27th	Block 2: Human Rights Protection in the Americas	Lee Donoho, D, <i>Regional Human Rights: The Inter-American and African Systems</i> . (only part on the Americas) <i>Atala v. Chile</i> (2012)
Session 16: November 2nd	Block 2: Women’s Rights, Part 1	Convention on the Elimination of Discrimination Against Women, Article 12 – Right to Non-Discrimination in Health Care; U.N. General Recommendation 24 – Article 12. Mid-term assignment due
Session 17: November 3rd	Block 2: Women’s Rights, Part 2	<i>A, B, C. v. Ireland (Europe)</i> <i>Roe v. Wade</i> (U.S.) (1973)
Session 18: November 10th	Block 2: Child Rights	U.N. Convention on the Rights of the Child Doek, J., <i>The Human Rights of Children: An Introduction</i> , in: <u>International Human Rights of Children</u> (Kilkelly, U., Liefaard, T., eds), Springer Publishing (2019).

<p>Session 19: November 16th</p>	<p>Block 2: Sexual Orientation and Gender Identity, Part 1</p>	<p>Article 8 and 14, European Convention on Human Rights; Amendments 5 and 14 of the U.S. Bill of Rights</p> <p><i>Yogyakarta Principles</i> (2006)</p> <p>Lee Donoho, D., <i>Gender Identity and Sexual Orientation as Subsets of Gender Rights.</i></p>
<p>Session 20: November 17th</p>	<p>Block 2: Sexual Orientation and Gender Identity, Part 2</p>	<p><i>Obergefell v. Hodges</i> (2015) & <i>Lawrence v. Texas</i> (U.S) (2003) <i>Schalk & Knopf v. Austria</i> (Europe) (2011) <i>Navtej v. Union of India</i> (India) (2018) – <u>Summary only</u></p>
<p>Session 21: November 23rd</p>	<p>Block 2: Cruel and Unusual Punishment: Death Row and Solitary Confinement</p>	<p>United Nations Convention Against Torture; 8th Amendment of Bill of Rights; Article 3 of the European Convention; <i>Mandela Guidelines</i></p> <p><i>Soering v. UK</i> (Europe) (1989) <i>Davis v. Ayala</i> (U.S.) – only the concurring opinion by Justice Kennedy (2015)</p>
<p>Session 22: November 24th</p>	<p>Block 2: Environment, Business and Human Rights</p>	<p>Lee Donoho, Douglas, <i>Civil Liability as a Method of Domestic Enforcement of International Human Rights.</i> Sections:</p>

		<p>1. <i>The Corporate Alien Tort: ATS Litigation against Multinational Corporations</i> (pages 118 – 147).</p> <p>United Nations, <i>Protect, Respect and Remedy Framework and Guiding Principles</i>.</p>
Session 23: November 30th	Block 3: Human Rights and International Criminal Law	<p><i>The Rome Statute (Articles 5 - 8bis)</i></p> <p>Lee Donoho, D., <i>International Criminal Law, Humanitarian Law and Human Rights</i>.</p>
Session 24: December 1st	Block 3: Human Rights and International Criminal Law	Akeyesu reading (ICTR)

**Note: Sessions 17 and 18 will be made up as review sessions for the final exam.
Readings (on OneDrive unless otherwise stated):**

Block 1: International Protection of Human Rights: The Work of the United Nations

Section 1): What are Human Rights?

Readings:

Lee Donoho, D., *What are International Human Rights? in International Human Rights Law*, Carolina Academic Press (2017).

Section 2) Human Rights Legislation: Applying and Interpreting Human Rights Legislation

A) Basic Principles of International Law in Connection with Human Rights

Lee Donoho, D., *Basic Principles of International Law Relevant to Human Rights*.

B) Human Rights under International Law: The Treaties

Lee Donoho, D., *What Rights are Humans Entitled to Under International Law?*

Moyn, S., *National Welfare and the University Declaration*, in: Not Enough: Human Rights in an Unequal World, The Belknap Press of Harvard University Press (2018).

Skim the following U.N. Treaties:

Universal Declaration of Human Rights

International Covenant on Civil and Political Rights

International Covenant on Economic, Social and Political Rights

Convention on the Rights of the Child

Convention on the Elimination of Discrimination Against Women

Convention Against Torture

Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

Convention on the Rights of People with Disabilities

Section 3): Domestic Incorporation of International Rights

Lee Donoho, D., *International Rights as Domestic Obligations*

General Comment 15 on the Right to Water, United Nations Committee on Economic and Social Rights (2003).

[http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/\\$FILE/G0340229.pdf](http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/$FILE/G0340229.pdf)

[Laxmi Mandal v. Deen Dayal Harinaagar Hospital & Ors, W.P.\(C\) Nos. 8853 of 2008, High Court of New Delhi \(India\).](#)

Section 4): Why Do Some States Not Honor their Human Rights Obligations? Analyzing the Peculiarities of U.S. Exceptionalism

Ignatieff, M. *Introduction: American Exceptionalism and Human Rights*, in Human Rights and American Exceptionalism, Princeton University Press (2015).

Section 5): International Application and Compliance: International Enforcement through Human Rights Mechanisms

a) The United Nations Human Rights Mechanisms

Lee Donoho, D., *International Promotion and Enforcement Under the United Nations Charter Based System*.

Lee Donoho, D., *International Promotion and Enforcement of Rights Through the U.N. Treaty Based System*.

Gardiner, H., *Trump Administration Withdraws U.S. from the U.N. Human Rights Council*, NY Times (June 19, 2018), available at:

<https://www.nytimes.com/2018/06/19/us/politics/trump-israel-palestinians-human-rights.html>

Creamer, C., & Simmons, B., (2020). *The Proof is in the Process: Self Reporting Under International Human Rights Treaties*. American Journal of International Law, 114 (1), 1 – 50.

Block 2: Regional Protection of Human Rights

Section 6) Human Rights at the Regional Level

a) Europe

Lee Donoho, D., *Regional Systems for the Protection of Human Rights: Introduction and Examination of the European System*.

Mignon, J-C, *European Court of Human Rights is not Perfect, but it's Still Precious*, The Guardian (April 19, 2011).

b) Comparative Regional Rights: Europe (in comparison to the U.S.)

United Nations General Comment 34 on Freedom of Opinion and Expression (2011):
<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

United Nations General Comment No. 22 on Freedom of Thought, Conscience and Religion (1993):

<https://www.equalrightstrust.org/ertdocumentbank/general%20comment%2022.pdf>

Liptak, A., *Unlike Others, U.S. Defends Freedom to Offend in Speech*, New York Times (June 12, 2008).

Rojansky, M., *Europe Doesn't Get Free Speech*, New York Times (February 24, 2006).

i. Freedom of Expression – U.S. Supreme Court

- a.** *Virginia v. Black (U.S.)* (2003)
- b.** *Snyder v. Phelps (U.S.)* (2011)
- c.** *Norwood v. U.K. (Europe)* (2004)
- d.** *PETA v. Germany (Europe)* (2012)

ii. Freedom of Religion

- a.** *Lemon v. Kurtzman (U.S.)* (1971)
- b.** *Lautsi v. Italy (Europe)* (2011)
- c.** *Lukumi v. City of Hialeah (U.S.)* (1993)
- d.** *Dogru v. France (Europe)* (2008)

c) Human Rights and their Protection: Africa

Lee Donoho, D., *Regional Human Rights: The Inter-American and African Systems*. (only part on Africa)

Viljoen, F., [International Human Rights Law in Africa](#), Oxford University Press (2012).

Following chapters:

1. *The African Commission: Protective Mandate & Promotional Mandate*
2. *The African Court on Human and People's Rights*

[Talibes Case \(Senegal\)](#): African Commission on Human and People's Rights (2015).

d) Human Rights and their Protection: The Americas

Lee Donoho, D., *Regional Human Rights: The Inter-American and African Systems*. (only part on The Americas)

Barrionuevo, A., *Court Condemns Uruguay for a Disappearance*, New York Times (March 24, 2011).

[Atala Riffo v. Chile](#), Inter-American Court on Human Rights (2012).

[Section 7\): Specific Rights Issues: Women's & Children's Rights](#)

a) Maternal Health & Reproductive Rights

Convention on the Elimination of Discrimination Against Women, Article 12 – Right to Non-Discrimination in Health Care; General Recommendation 24 – Article 12.

Venter, C., *Women's Access to Healthcare and Reproductive Rights*, in International Women's Rights, Equality and Justice. Carolina Press (2012).

A, B, C. v. Ireland (Europe) (in the Venter file, at the end) (2010)
Roe v. Wade (U.S.) (1973)

b) Children's Rights

U.N. Convention on the Rights of the Child

Doek, J., *The Human Rights of Children: An Introduction*, in: International Human Rights of Children (Kilkelly, U., Liefwaard, T., eds), Springer Publishing (2019).

Section 8): Specific Rights Issues: Sexual Orientation

a) Gender Identity, Sexual Orientation & LGBT Rights

Article 8 and 14, European Convention on Human Rights; Amendments 5 and 14 of the U.S. Bill of Rights

Yogyakarta Principles (2006)

Lee Donoho, D., *Gender Identity and Sexual Orientation as Subsets of Gender Rights*.

Obergefell v. Hodges (2015) & *Lawrence v. Texas* (U.S) (2003)

Schalk & Kopf v. Austria (Europe) (2011)

[*Navtej v. Union of India* \(India\) \(2018\)](#)

Section 9): Specific Rights Issues: Torture, Cruel and Unusual Punishment

United Nations Convention Against Torture; 8th Amendment of Bill of Rights; Article 3 of the European Convention; *Mandela Guidelines*

Chahal v U.K. (Europe) (1996)

Soering v. UK (Europe) (1989)

Hope v. Pelzer (U.S.) (2002)

Davis v. Ayala (U.S.) – only the concurring opinion by Justice Kennedy (2015)

Section 10): Business, Environment and Human Rights

Lee Donoho, Douglas, *Civil Liability as a Method of Domestic Enforcement of International Human Rights*. Sections:

2. *The Corporate Alien Tort: ATS Litigation against Multinational Corporations* (pages 118 – 147).

United Nations, *Protect, Respect and Remedy Framework and Guiding Principles*.

[*Kiobel v. Royal Dutch Petroleum*](#) (U.S.) (2013)

Section 11): Pop Culture and Human Rights: From Eurovision to Bollywood.

Dubin, A., *A Human Rights-Based Analysis of the Eurovision Song Contest and the European Broadcasting Union* in *The Eurovision Song Contest as a Cultural Phenomenon From Concert Halls to the Halls of Academia* (eds. Dubin, Vuletic & Obregon, 2022).

[UN goes 'Bollywood' in latest push to promote LGBT rights](#), UN News (2014).

Block 3: International Criminal Law and Human Rights

Section 12): Protection of Human Rights Through International Criminal Law

The Rome Statute (Articles 5 - 8bis)

Lee Donoho, D., *International Criminal Law, Humanitarian Law and Human Rights*.

Cassese chapters on Crimes Against Humanity and Genocide.