

International Human Rights Institutions (PO8018)

Weeks: 8-12 Hilary Term 2013

Seminar location: Phoenix House, 201

Seminar time: 17:00-18:45

Convenor: Thomas Pegram

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Office: 2-3 College Green, Room 4.06

Office hours: Tuesday 09.30-11.30

This short module aims to advance a critical understanding of the role, evolution and future of international human rights institutions. The course starts with an introduction to the modern international human rights regime. It surveys the international human rights treaty system, the Universal Periodic Review, Human Rights Council, and National Human Rights Institutions. It concludes with an analysis of the effectiveness, implementation and legitimacy of international human rights standards and institutions.

On successful completion of this module students should be able to:

- Understand the institutional foundations of the modern international human rights regime
- Analyse international human rights institution as they interact with state sovereignty as well as national interests
- To evaluate the promotion and protection of human rights within international and national human rights systems
- To understand the role of the various actors involved in the promotion and protection of human rights

General Reading:

Alston, P., et al., *International Human Rights Law in Context: Law, Politics, and Morals* (Oxford University Press, 2008, 3rd Edition)

Forsythe, D., *Human Rights in International Relations* (Cambridge University Press, 2012, 3rd edition)

You may find it interesting and/or helpful to read an introductory overview of the sub-field of human rights. To that end, I suggest this textbook:

Baylis, J. et al., *The Globalization of World Politics* (Oxford: 2011, 5th Edition), especially Chapter 30. Also, chapters 17, 19, 20, 29, and 31

Assessment:

20%: Participation

30%: Weekly Reading Memos (15% x 2)

50%: End of Module Assignment

Final grades are final.

20%: Participation

Participation in seminars constitutes an important portion of your grade. There is a significant amount of reading to be done, and the expectation is that all students will come to class having done the assigned readings. Seminar participation requires contributing to class discussion, including listening to others, and demonstrating a sound knowledge of readings through constructive in-class commentary and/or questions. Required readings are indicated although other readings are included for additional consultation. To incentivize active participation each student will prepare one response memo on the readings each week (details in the next section). Students will be expected to lead discussion in class and all students should come prepared to be called upon as discussants.

I reserve the right to have reading quizzes if it becomes clear that the class is not keeping up with the reading. We may also institute a more formal presentation format depending on numbers.

You must attend all five seminars. If you are ill, have a family emergency or cannot attend for any other reason, you must inform the convenor ASAP and documentation may be requested.

30%: Weekly Reading Memos

Students are expected to write a response memo to the week's reading of no more than one-and-a-half to two typed, single-spaced pages (please upload in Microsoft Word not PDF). Care should be taken in these memos to produce an analytical engagement with the key themes of the week – this meaning that the memos should explicate, elaborate and critique, not summarise, keeping in mind the limit of two pages.

The Memo must engage at least two readings on the syllabus for that week and provide little to no summary. Students must choose at least one reading from the primary texts and at least one from further texts. Texts accompanied by an asterisk must be selected that week. Based on the readings, students should use the Memo to respond to a discussion question of their own devising. An example discussion question is provided for each week. Students should make an effort to link readings to past weeks' assignments, current events, and to their own interests in the field of human rights.

Students are particularly encouraged to identify newspaper stories, editorials or topical magazine/journal articles which are directly related to the Reading Memo and more broadly the topic under discussion that week. All students must contribute at least one such current affairs piece during the term. An example: *The Economist*, 'Thinking the UNthinkable', 11 November 2010: <http://www.economist.com/node/17463443>

All of the Reading Memos will be reviewed and must meet a basic standard of quality. Two of the Reading Memos will be graded and will count towards the final grade. Students will have a choice as to which ones they want marked, but those must be turned in the day before the readings are discussed.

Memo must be posted to Turnitin (under Wk #: Reading Memo) no later than 24 hours before class (i.e. Monday 5pm). Memos are subject to the late penalties outlined below. If you are

late posting your Memo to Blackboard, this late penalty will be applied to one of the two Memos you receive a mark on.

Do not fail to post. If you do not post a Reading Memo you will automatically be given a zero for this part of the course (30%) regardless of how well you do on the two you choose to be graded. Any Reading Memo more than two days late will be counted as not posted.

50%: End of Module Assignment

Note that there are two possible end of module assignments. Which you must complete depends on whether you take this module in combination with International Human Rights Institutions (PO8018) or not. Specifically:

- If taking this module (PO8016) without PO8018, you must complete the 'Critical Literature Review' assignment (detailed below).
- If taking this module (PO8016) and PO8018, you must complete one 'Research Design Paper' assignment (detailed below), which will constitute your 'end of module assignment' grade for both modules.

Note that word counts do not include the bibliography but do include all other words (e.g. footnotes etc). Please include a word count on your submitted work. Late work will be penalized at a rate of 4 points per day late. Late submissions will be excused if backed by a medical certificate or other compelling evidence.

Critical Literature Review (approx. 2,000 words)

Students are required to prepare a review essay of approx. 2,000 words dealing with material that they have read concerning a major topic within the scope of the seminar series. They should choose one theme from the course and write a paper offering a critical review of the literature. This must demonstrate knowledge of the primary and further readings, but may draw on additional readings/materials beyond the syllabus as desired. The essay should show that you understand different perspectives and theoretical issues raised in class. Beyond a summary of the state of the literature, the essay should: (1) include analysis of the evidence, what the chosen scholarship is trying to accomplish, and what approach it has taken to do that; (2) a critique of any particularly influential work(s) on its/their own terms (e.g. does it answer the question it asks, is it internally coherent, is the method used correctly, is the evidence convincing, what improvements could be made; (3) the best essays will seek to use the literature under review as a stepping stone to make a broader commentary on a type of work, a sub-topic of human rights scholarship, or a particular theory. In developing your critique, you will likely find some arguments or evidence more persuasive than others. Outlining your reasoning for such conclusions will tend to raise your grade. Note that while the course is divided into five distinct weeks, several of the topics have considerable overlap with each other and, while you are not required to draw from the readings of multiple weeks, you may find it appropriate to do so. The literature review should be double-spaced and approx. 2000 words in length, not including the bibliography but including all other words (e.g. footnotes etc). Please include a word count on your submitted essay.

Deadline for submission: Monday 15 April 2013

Research Design Paper (approx. 3,500 words)

The largest part of your grade is assessed on the basis of a project proposal. Each student should choose one theme from the course and write a paper based on required and additional readings, with further readings/sources encouraged, and offer a critical review of the literature. The goal of this project is to provide a barebones outline of a potential empirical research project you could do for a masters thesis, an academic article, or even a doctoral dissertation. The topic of the research project and the books or other materials to be considered should be chosen in consultation with the course convenor. You should be proactive in seeking guidance on this assignment – I am always happy to answer your questions and make sure you understand what's expected of you. Each project proposal should include: (1) a statement of the research question (an abstract of around 200 words), (2) a review of the existing literature on the topic, (3) your theoretical argument, (4) your hypotheses that flow from this argument, (5) a conclusion that states how your project adds to what we know about human rights, and (6) a bibliography.

The literature review must be framed around your research question and will discuss what has been done in a subfield, which gaps you detect, and how a novel or insightful argument may help fill that gap. See above guidance on critical literature review (approximately 2,500 words).

The project proposal should be around 3,500 words and no more than 4,000 in length (excluding bibliography). Basic paper conventions apply: (1) formatted in Microsoft Word, double spaced, (2) complete footnotes, (3) pages numbered, (4) proofread, and (5) full bibliography. Essays must state the word count.

Deadline for submission: Monday 15 April 2013

Submission

Coursework should be submitted via the plagiarism detector Turnitin; see www.turnitin.com. All work must be submitted on time, unless specific arrangements have been made in advance with Dr Thomas Pegram. Requests for extensions must be accompanied by documentation. All late work will be penalised 4 points per day, including holidays and weekends. See above for more detailed instructions on submission of Weekly Reading Memos, especially information on failing to post.

Please note that PLAGIARISM IS UNACCEPTABLE in any circumstances and both the Department and College takes all plagiarism cases very seriously. This is particularly important in terms of reviewing academic literature where it is important that the review is based on your own reading and assessment. Plagiarism will lead to a failing grade for the entire module.

To submit via turnitin: the class ID is 5897041 and the password is hr2013

If you haven't used www.turnitin.com before, select new users on the homepage, follow the instructions for setting up a student profile, login with your new personal password, and you will get to the page for uploading a paper for the class. Make sure you figure out how to do this in good time for the deadline.

The course promises to be a stimulating experience. However, it should be observed that the reading load is heavy. Some of the material is dense and difficult. You should approach this as a challenging graduate seminar. The expectation is that you will devote the time and energy necessary to work through the material in a *deliberate* and *critical* fashion, in taking the assignments seriously, and in making informed contributions in seminar discussions. Please look carefully at the texts and assess the work load, and make an informed judgment about whether this is the seminar for you at this particular time.

Reading List: PO8018

Week 1: The United Nations and Human Rights

Key themes:

- The UN system and human rights
- UN reform, UN Human Rights Council and Universal Periodic Process
- UN Special Procedures

Example discussion question: Do international institutions compete with sovereignty concerns?

For reference: Alston, P., et al., *International Human Rights Law in Context: Law, Politics, and Morals* (Oxford University Press, 2008, 3rd Edition), Chapter 9 (pp. 735-843)

Primary texts:

Forsythe, D., ‘**Global application of human rights**’, in D. Forsythe, *Human Rights in International Relations* (Cambridge University Press, 2012, 3rd edition), Chapter 3

Hafner-Burton et al., ‘**Human Rights Institutions, Sovereignty Costs, and Democratization**’, ILAR Working Paper #8, August 2011.

Boyle, K. ‘**Marking Another Birthday: Ten Years of the United Nations High Commissioner for Human Rights**’, *Netherlands Quarterly of Human Rights*, vol. 22, (2004), pp. 301.

Scannella, P. and Splinter, P., ‘**The United Nations Human Rights Council: A Promise to be Fulfilled**’, *Human Rights Law Review*, vol. 7, no. 1, 2007, pp. 41-72.

Alston, Philip, ‘**Hobbling the Monitors: Should UN Human Rights Monitors Be Accountable?**’ (March 17, 2011), *Harvard International Law Journal*, vol. 52, 2011; NYU School of Law, Public Law Research Paper No. 11-21.

Further texts:

Abebe, A.M. ‘**Of Shaming and Bargaining: African States and the Universal Periodic Review of the United Nations Human Rights Council**’, *Human Rights Law Review*, vol. 9, 2009, pp. 1.

‘The Role of the United Nations Secretariat [1992]’, in F. Coomans et al. (eds.) *Human Rights from Exclusion to Inclusion: An Anthology from the Work of Theo C. van Boven* (Kluwer Law International, 2000) pp. 145-76.

Annan, Kofi, *In Larger Freedom: Decision Time at the UN*. May/June 2005
<http://www.foreignaffairs.com/articles/60799/kofi-annan/in-larger-freedom-decision-time-at-the-un>

Mertus, J., *The United Nations and Human Rights*, 2nd Ed. (London/New York, Routledge, 2009) pp. 64-97 (Chapter 4).

Human Rights Watch, *Keeping the Momentum: One Year in the Life of the UN Human Rights Council* (HRW, 2011)

Clapham, Andrew, **‘Creating the High Commissioner for Human Rights: The Outside Story’**, *European Journal of Int’l Law*, vol. 5, 1994, pp. 556-568.

Week 2: How IGOs Influence States

Key themes:

- Characteristics of IGOs
- Building global structures to influence states
- Compliance and implementation

Example discussion question: Are inter-governmental organizations (IGOs) the appropriate actor to create and ensure human rights?

For reference: Alston, P., et al., *International Human Rights Law in Context: Law, Politics, and Morals* (Oxford University Press, 2008, 3rd Edition), Chapter 8 (pp. 669-734)

Primary texts:

Hurrell, A., **‘Complex governance beyond the state’**, in A. Hurrell, *On Global Order: Power, Values and the Constitution of International Society* (Oxford University Press, 2010), pp. 95-120.

Downs, G. et al., **‘Is the Good News about Compliance Good News about Cooperation?’** *International Organization*, vol. 50, (1996), pp. 379-406

Chayes A., and A. Chayes, **‘On Compliance’**, *International Organization*, vol. 47, (1993), pp. 175-205.

Goodman, R. & D. Jinks, *Socializing States: Promoting Human Rights Through International Law* [excerpts from Chapters 1 & 9] (Oxford University Press, forthcoming)

Abbott, K. W., P. Genschel, D. Snidal, & B. Zangl, **‘Orchestration: Global Governance through Intermediaries’** (August 6, 2012), available at SSRN:
<http://ssrn.com/abstract=2125452>

Raustiala, K., 'Form and Substance in International Agreements', *American Journal of International Law*, vol. 99 (July 2005).

Further texts:

* Linos, K., and T. Pegram, 'What happens when soft law hardens? National human rights institutions and the international human rights system', Goodman and Beth Simmons (eds.) *Implementing Commitments: The Domestic Effects of Human Rights Treaty Ratification* (Cambridge University Press, forthcoming 2013)

Greenhill, Brian, 'Norm Diffusion in IGO Networks: The Case of Gay Rights and Women's Rights', A paper prepared for presentation at the Hauser Globalization Colloquium, New York University School of Law, 20 September 2012.

Frank et al., 'The Nation-State and the Natural Environment over the Twentieth Century', *American Sociological Review*, vol. 65, no. 1, (2000), pp. 96-116.

Warren, K., 'The 2000 UN Human Trafficking Protocol: rights, enforcement, vulnerabilities', in M. Goodale & S. Engle-Merry (eds.), *The Practice of Human Rights: Tracking Law between the Global and the Local* (Cambridge University Press, 2007), pp. 242-70.

Carpenter, C., 'Governing the global agenda: "gatekeepers" and "issue adoption" in transnational advocacy networks', in D. Avant et al. (eds.), *Who Governs the Globe?* (Cambridge University Press, 2010), pp. 202-37.

Week 3: Treaty Innovation at the United Nations

Main issues:

- UN treaty bodies: working, functions and powers (ratification, states reports, monitoring)
- Individual communications and complaint-handling
- Treaty body reform

Example discussion question: What is the core contribution of the UN treaty body system?

For reference: Alston, P., et al., *International Human Rights Law in Context: Law, Politics, and Morals* (Oxford University Press, 2008, 3rd Edition), Chapter 10 (pp. 844-924)

OHCHR Fact Sheet on Treaty Bodies System:

<http://www2.ohchr.org/english/bodies/docs/OHCHR-FactSheet30.pdf>

Review the work of the ten human rights treaty bodies:

<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

Primary texts:

O'Flaherty, M., 'Reform of the UN Human Rights Treaty Body System: Locating the Dublin Statement', *Human Rights Law Review*, vol. 10, no. 2, (2010), pp. 319-335.

Mechlem, Kerstin, **'Treaty Bodies and the Interpretation of Human Rights'**, *Vanderbilt Journal of Transnational Law*, vol. 42, (2009), pp. 907-945.

Heyns, C. & F. Viljoen, **'The Impact of the United Nations Human Rights Treaties on the Domestic Level'**, *Human Rights Quarterly*, vol. 23, (2001)

OHCHR, **Concept Paper on the High Commissioner's Proposal for a Unified Standing Treaty Body**, 22 March 2006, UN Doc. HRI/MC/2006/2

Addo, M., **'Practice of United Nations Human Rights Treaty Bodies in the Reconciliation of Cultural Diversity with Universal Respect for Human Rights'**, *Human Rights Quarterly*, vol. 32, no. 3, August 2010), pp. 601-64.

Lee, Y., **'Communications Procedure under the Convention on the Rights of the Child: 3rd Optional Protocol'**, *International Journal of Children's Rights*, vol. 18, no. 4, 2010, pp. 567-583.

Further texts:

Novak, M., **'The Need for a World Court of Human Rights'**, *Human Rights Law Review*, vol. 7, no. 1, (2007), pp. 251-259.

Mahon, C., **'Progress at the Front: The Draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights'**, *Human Rights Law Review*, vol. 8, no. 4, (2008), pp. 617-646.

Murdoch, J., **'Unfulfilled Expectations: the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women'**, vol. 1, *European Human Rights Law Review*, 2010, pp. 27-45.

Kayness, R. & P. French, **'Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities'**, *Human Rights Law Review*, vol. 8, (2007), pp. 1-34.

Week 4: The United Nations and Torture Prevention

Main issues:

- Focus: Optional Protocol CAT, and Subcommittee on the Prevention of Torture
- OPCAT three-tier compliance apparatus
- Evaluating domestic compliance effects

Example discussion question: How radical a departure is the OPCAT when compared to traditional UN treaty enforcement provisions?

For reference:

Review the Optional Protocol and associated documents on the OHCHR website:
<http://www2.ohchr.org/english/law/cat-one.htm>

Review the project website on National Human Rights Institutions and Torture Prevention and Response: <http://nhritortureprevention.org/>

Primary texts:

Evans, M., **‘Getting to Grips with Torture’**, *International and Comparative Law Quarterly*, vol. 51, (2002), pp. 376.

Kelly, T. **‘The UN Committee Against Torture: Human Rights Monitoring and the Legal Recognition of Cruelty’**, *Human Rights Quarterly*, vol. 31, no. 3, (2009), pp.777-800.

Evans, M. & C. Haenni-Dale, **‘Preventing Torture? The Development of the Optional Protocol to the UN Convention against Torture’**, *Human Rights Law Review*, vol. 1, no. 4, (2004), pp. 19-55.

McQuigg, R., **‘How Effective is the United Nations Committee against Torture’**, *European Journal of International Law*, vol. 22, no. 3, (2011).

Goodliffe, J. & D. Hawkins, **‘Explaining Commitment: States and the Convention against Torture’**, *The Journal of Politics*, vol. 68, no. 2, (2006), pp. 358-71.

Further texts:

Engstrom, P. & T. Pegram, **‘Bridging the Gap: National Human Rights Institutions and Torture Prevention in Latin America,’** unpublished working paper.

Lutz, E., & K. Sikkink, **‘International Human Rights Law and Practices in Latin America’**, *International Organization*, vol. 54, no. 3, (Summer 2000), pp. 633-59.

Rodley, N., **‘Reflections on Working for the Prevention of Torture’**, *Essex Human Rights Review*, vol. 6, no. 1, (2009), pp. 15.

Delaplace E., & M. Pollard, **‘Visits by human rights mechanisms as a means of greater protection for persons deprived of their liberty’**, *International Review of the Red Cross*, vol. 87, no. 857, (2005).

Felner, E., **‘Torture and Terrorism: Painful Lessons from Israel’**, in Kenneth Roth and Minky Worden (eds.), *Torture: Does It Make Us Safer? Is It Ever OK?* (New York: The New Press/Human Rights Watch, 2005)

Wei Wu & T. Vander Beken, **‘Police Torture in China and its Causes: A Review of the Literature’**, *Australian and New Zealand Journal of Criminology*, vol. 43, no. 3, (2010).

Week 5: The United Nations and National Human Rights Institutions

Main issues:

- Focus: National Human Rights Institutions
- United Nations and norm entrepreneurialism
- Norm transmission and implementation

Example discussion question: What are some of the problems, if any, of NHRIs being conceived as ‘products of the international system’?

For reference: GIHR, **National Human Rights Institutions: An Introduction** (Berlin: German Institute for Human Rights, 2010).

Primary texts:

Goodman, R. & T. Pegram, ‘**Introduction: National human rights institutions, State Conformity, and Social Change**’, in R. Goodman and T. Pegram (eds.), *Human Rights, State Compliance, and Social Change* (Cambridge University Press, 2012).

Carver, R., ‘**A New Answer to an Old Question: National Human Rights Institutions and the Domestication of International Law**’, *Human Rights Law Review*, vol. 10, no. 1, (2010), pp. 1-32.

Sidoti, C., ‘**National Human Rights Institutions and the International Human Rights System**’, in R. Goodman and T. Pegram (eds.), *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions* (Cambridge University Press, 2012), 91-123.

Alston, P., et al., ‘**Vertical Interpenetration**’, *International Human Rights Law in Context: Law, Politics, and Morals* (Oxford University Press, 2008, 3rd Edition), Chapter 12 (pp. 1087-1155)

Jamie Meyerfeld, ‘**The Democratic Legitimacy of International Human Rights Law**’, *Indiana International and Comparative Law Review*, vol. 19, no. 1, (2009), pp. 49.

Further texts:

Rosenblum, P., ‘**Tainted Origins and Uncertain Outcomes**’, in Ryan Goodman and Thomas Pegram (eds.), *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions* (Cambridge University Press, 2012), pp. 297-323.

Network on National Human Rights Institutions (ANNI), **2012 ANNI Report on the Performance and Establishment of National Human Rights Institutions in Asia** (ANNI, 2012)

Brodie, Meg, ‘**Progressing Norm Socialisation: Why Member Matters. The Impact of the Accreditation Process of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights**’, *Nordic Journal of International Law*, vol. 80, (2011), pp. 143-192

Koo, Jeong-Woo and F. O. Ramirez, ‘**National Incorporation of Global Human Rights: Worldwide Expansion of National Human Rights Institutions, 1966-2004**’, *Social Forces*, vol. 87, (2009), pp. 1321-1354.

Pegram, T. ‘**The Bolivian Human Rights Ombudsman and Economic, Social and Cultural Rights**’, in Eva Brems et al. (eds.) *The Role of National Human Rights Institutions in the Protection of Economic and Social Rights* (Intersentia, in press forthcoming 2012)