South Asian University  
Faculty of Legal Studies  
LLM  
Monsoon Semester _3_ in 2019  
Course Information

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<thead>
<tr>
<th>Course Title:</th>
<th>INTERNATIONAL HUMAN RIGHTS LAW (IHRL)</th>
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<td>Course:</td>
<td>Compulsory Paper</td>
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<tr>
<td>Course Code:</td>
<td>LW-009</td>
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<td>Course Instructor:</td>
<td>Dr. Nafees Ahmad <a href="mailto:drnafeesahmad@sau.ac.in">drnafeesahmad@sau.ac.in</a>, <a href="mailto:nafeestarana@gmail.com">nafeestarana@gmail.com</a></td>
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<tr>
<td>Course Duration:</td>
<td>Monsoon Semester [Third Semester]</td>
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<td>Credit Units:</td>
<td>4 (MSE/TPW/ESE)</td>
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<td>Medium of Instruction:</td>
<td>English</td>
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<tr>
<td>Prerequisites:</td>
<td>Nil</td>
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<td>Precursors:</td>
<td>Nil</td>
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<td>Equivalent Courses:</td>
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PART-II MODULE CONTENTS

WEEK: 1. INTRODUCTION TO THE INTERNATIONAL HUMAN RIGHTS LAW


Discussion Topics:

- What is a right? What are human rights? Why do we have them?
- Who counts as a human and on what grounds?
- Is Dignity the Foundation of Human Rights?
- Are human rights truly universal, global?
- Does the disagreement about the meaning of human rights undermine it as a political project?
- What kinds of human rights problems does the world face today?
- What role do national and international judicial institutions play in addressing these?
- How did human rights come to shape the foreign policy imperatives of states in post-1945?
- What do human rights treaties require states to do?
- Why do states sign up to human rights treaties? Do they ever keep human rights commitments?
- How do citizens and NGO’s put pressure on states? Is human rights politics just “Selectivism”?
- Why does the US promote human rights while refusing to sign on to major human rights treaties?
- Is human rights just window-dressing for national interests?
- Should democracies promote democracy? Can outsiders help insiders frame a democratic constitution: One Case of Any Country?

Cases: One leading case shall be discussed.

Recommended Readings:


Additional Readings:


**WEEK: 2. THE HUMAN RIGHTS MOVEMENT IN RETROSPECT**


**Discussion Topics:**

- What are the legal foundations of human rights?
- What are the sources of international human rights law?
- How was international law applied through the end of World War II?
- What limits do human rights impose on states combating terrorism?
- Should states promote international justice for human rights violations?
- What role do the legislative, judicial, and executive actions of states play in the promotion and observance of human rights?
- How has the spread of liberal constitutionalism helped these efforts?
- Through what arrangements may minority groups exercise self-determination or autonomy within a state?
- Is there a trend within the human rights movement toward recognizing the legitimacy of demands for internal self-determination?
- How do nongovernmental organizations (NGOs) and international nongovernmental organizations (INGOs) contribute to the promotion and enforcement of human rights?
- How effective are they? How has their role changed and developed over time?

**Cases:** One leading case shall be discussed.

**Recommended Readings:**

WEEK: 3. INTERNATIONAL HUMAN RIGHTS LAW AND GLOBAL SOUTH PERSPECTIVES


Discussion Topics:

- Where do human rights come from and how have they changed world politics?
- What duties do universal human rights place on political authority?
- Is the notion of “humanity” in human rights actually universal or does their legitimacy depends on their conformity with certain cultures?
- What is the contemporary Western understanding of rights?
- What is the relationship between rights and duties in different traditions of political thought around the world?
- What conflicts exist between the traditional gender roles dominant in some cultures and universal human rights norms?
- What conflicts exist between state sponsorship of particular religious belief or practice and universal human rights norms?
- Do human rights create exclusion and serve powerful states?
- How are human rights used in political practice?
- What are the approaches to human rights?
- Why there is a multitude of approaches to human rights?
- What is the rationale behind all these approaches?
- How human rights values are promoted and preserved in multiple legal orders?
- Is there any one universally accepted approach to human rights?
- Whether the contemporary concepts of legal pluralism and human dignity share an affinity and mutually reinforcing relationship?
- Whether, on the contrary, they are antonymous or even antagonistic ways of conceiving of law and organizing its operations?
- How do different analysts define globalization and its impact on human rights? Is there a right to socio-economic development?

Cases: One leading case shall be discussed.

Recommended Readings:

2. Aurel Croissant & Christoph Trinn, *Culture, Identity and Conflict in Asia and Southeast Asia*, Culture, Identity and Conflict in Asia and Southeast Asia, ASIEN 110 (Jan. 2009), S. 13-43

**Additional Readings:**

WEEK: 4. NORMATIVE FOUNDATION OF CORE INTERNATIONAL HUMAN RIGHTS TREATIES-CIVIL & POLITICAL RIGHTS & ECONOMIC, SOCIAL CULTURAL RIGHTS -I


Discussion Topics:

- Which civil and political rights fall under the category of human rights?
- What are the instruments for their protection?
- What is the relationship between civil/political and social/economic rights?
- What roles do—and should—the courts play in developing the second set of rights?
- What rights do children have?
- What objections have been raised to the legitimacy of such rights?
- What kinds of practices raise serious children’s rights issues?

Cases: One leading case shall be discussed.

Core Readings:


WEEK: 5. NORMATIVE FOUNDATION OF CORE INTERNATIONAL HUMAN RIGHTS TREATIES-WOMEN'S RIGHTS, CHILD AND INDIGENOUS PEOPLE AS HUMAN RIGHTS- II


Discussion Topics:

- How does the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) define women’s human rights?
- How does CEDAW seek to protect Women’s Rights?
- What questions do international requirements concerning women’s rights raise regarding the distinction between the public and private spheres?
- What role do customary law and UN resolutions play in the definition of international human rights law?
- What problems exist in developing a feminist perspective on human rights?
What reservations have some states made concerning their acceptance of CEDAW?

**Cases:** One leading case shall be discussed.

**Recommended Readings:**

10. UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

**Additional Readings:**


**WEEK: 6. INTERNATIONAL HUMAN RIGHTS MONITORING INSTITUTIONS**

Discussion Topics:

- What role do international organizations play in developing, monitoring, and enforcing international human rights?
- What is state sovereignty?
- How does the United Nations system deal with human rights?
- What are thematic mechanisms? How does the Security Council use humanitarian interventions and sanctions to protect and enforce human rights? How successfully have these tools been used in recent years?
- What tensions exist between these organizations’ purposes and state sovereignty?
- What is a treaty organ?
- How does the Human Rights Committee of the International Covenant on Civil and Political Rights function?
- What role does Human Rights Committee of the International Covenant on Civil and Political Rights play in the promotion and enforcement of human rights?
- What kinds of complaints are brought before the ICCPR Committee?
- How does it differ from other treaty regimes?

Cases: One leading case shall be discussed.

Recommended Readings:


Additional Readings:


MID-SEMESTER EXAMINATION

WEEK: 7. EVOLUTION AND REGIONAL APPROACHES TO HUMAN RIGHTS ARRANGEMENTS

**Discussion Topics:**

- What regional arrangements exist to protect and promote human rights?
- How do they differ from universal systems?
- What are their advantages and disadvantages? How does the European system work?
- What kinds of conflicts does the European Court handle? With what results?
- How do the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights go about promoting human rights?
- How does the African System attempt to enforce human rights? How does it compare with the European and Inter-American systems?

**Cases:** One leading case shall be discussed.

**Recommended Readings:**


**WEEK: 8. HUMAN RIGHTS INSRUMENTS INTERPRETATION AND AMPHITHEATRE OF TRADE AND DEVELOPMENT**


**Discussion Topics:**

- What is the contemporary Western understanding of rights?
- What is the relationship between rights and duties in different traditions of political thought around the world?
- Are human rights universal, or does their legitimacy depends on their conformity with certain cultures?
- What conflicts exist between the traditional gender roles dominant in some cultures and universal human rights norms?
- What problems exist in developing a feminist perspective on human rights?
- What reservations have some states made concerning their acceptance of CEDAW?
- What conflicts exist between state sponsorship of particular religious belief or practice and universal human rights norms?
- How do different analysts define globalization and its impact on human rights? Is there a right to socio-economic development?
**Cases:** One leading case shall be discussed.

**Recommended Readings:**


**Additional Readings:**


WEEK: 9. CLIMATE CHANGE AND HUMAN RIGHTS

- General Framework, Climate Change and Human Rights, Relationship between Climate Change and Interdependent Human Rights, Global Warming and Environmental Protection, Rights Perspectives on Climate Change, Rights-Based Approach to Climate Change, Role of States: Limits and Potentialities of the Human Rights Protection System, the Missing Link between Harmony and Invention and Summation.

Discussion Topics:

- What are climate change and its multi-dimensional ramifications?
- What are the key rights central to human existence affected by the climate change?
- Do anthropogenic greenhouse gas emissions affect human rights?
- Should fundamental rights shape climate policies?
- How to balance human rights with climate policies?
- Is there a relationship between United Nations Framework Convention on Climate Change (UNFCCC) and Human Rights Regulatory Regimes?
- How to explore the relationship between climate change and interdependent human rights, through the lens of an international and comparative perspective?
- Is there any possibility of overcoming the divide between universal rights and climate change, and underlying barriers?

Cases: One leading case shall be discussed.

Recommended Readings:

2. Anton, Donald K and Shelton, Dinah, Environmental Protection and Human Rights (CUP, 2011) 863
3. Atapattu, Sumudu, Climate Change in South Asia: Towards an Equitable Legal Response within a Framework of Sustainable Development and Human Security (IDLO, 2011)
7. Boyle, Alan and Anderson, Michael R (eds), Human Rights Approaches to Environmental Protection (OUP, 1996)
Additional Readings:

1. Adams, Barbara and Luchsinger, Gretchen, *Climate Justice for a Changing Planet: a Primer for Policy Makers and NGOs* (UN Non-Governmental Liaison Service, 2009)

WEEK: 10. HUMAN RIGHTS IN SAARC NATIONS


South Asian Constitutional Texts:

Preamble with Articles 6, 7, 8, 22-59 of the Constitution of Afghanistan
Preamble with Article 26-47A of the Constitution of Bangladesh
Preamble with Article 7 (1-23) of the Constitution of Bhutan
Preamble with Articles 12-32 of the Constitution of India
Preamble with Articles 16-69 (FR), 189 (HRC) of the Constitution of Maldives
Preamble with Articles 16-46 under Part-III of the Constitution of Nepal
Preamble with Articles 8-28 of the Constitution of Pakistan
Preamble with Articles 10-17 of the Constitution of Sri Lanka

Discussion Topic:

- What are the human rights concerns in South Asia?
- How to develop human rights culture in South Asia?
- Do Asian Values make international human rights norms inapplicable to Asian countries?
- How serious a challenge do they raise for the idea that human rights are universal?
- What are the key issues in the human rights and ‘Asian values’ debate in South Asia?
- What is the validity of the concept of ‘Asian values’ in South Asia while explaining and reconciling some of the key differences between the position on human rights of SAARC states which have been concerned despite internal tensions and ‘the West’ particularly the US, and the NGOs in the current ‘Asian values’ debate?
- Is there any feasibility of evolving the South Asian Charter of Human Rights?
Are nationally established human rights commissions in the SAARC jurisdictions significantly different from one another, and what have been their successes and failures?

How does contestation for a regional or national human rights regime involve nation-states battling against their domestic civil society and an international movement for a normative global order?

Has the SAARC, with its avowed stance on non-interference responded favourably to the human rights challenge?

Whether a human rights regime conflicts with the notion of a nation-state as envisioned by the SAARC governments?

What are the prospects for Human Rights within the SAARC rubric?

Why SAARC region does not have its own regional human rights mechanism?

Should civil society push for a SAARC mechanism on Human Rights feasible?

Are SAARC states keen to promote the idea for a regional rather than a global arrangement and protection of human rights in specific regions?

**Cases:** One leading case shall be discussed.

**Recommended Readings:**


**Additional Readings:**

WEEK: 11. CURRENT KEY ISSUES AND CHALLENGES IN INTERNATIONAL HUMAN RIGHTS LAW


Discussion Topic:

- Terrorism, Counter-terrorism and human rights
- Non-state actors and human rights
- Implementation of economic, social and cultural rights
- The relationship of religion and human rights
- International development, global impoverishment and human rights
- Gender challenges for international human rights
- The extraterritorial application of international human rights law on civil and political rights
- Enforcement and remedies
- Victims’ participation and reparations in international criminal proceedings
- Continuing evolution of the United Nations treaty bodies system
- The future of the United Nations Special Procedures
- The role and future of the Human Rights Council
- Transitional justice
- How can we respond to massive violations of human rights?
- What are the principles on which such responses are mounted?
- What kinds of responses have been attempted in the past?
- What has been the international and internal state response to the 1994 genocide in Rwanda?
- How effective has this response been? What factors complicate an effective response?
- How do truth commissions deal with massive human rights violations? What are the advantages of truth commissions? What challenges do they face, and what problems do they raise?
- What are terrorism and its dimensions?
- Is there any universally accepted definition of terrorism?
- Do terrorists have human rights?
- Why terrorism is employed as a theology of liberation in major regions of the world?
- What is the difference between Jihad and terrorism?

Cases: One leading case shall be discussed.
Recommended Readings:


**WEEK: 12. CRITIQUING AND EVALUATING INTERNATIONAL HUMAN RIGHTS LAW**

- International Human Rights Law Course Contents, Term Papers Presentations, Course Wrap-up, Thanks-Giving and Online Feedback

Part-XI: - CASE LAW DIGEST

Part XII:-ADVANCED READINGS:

Part-XIII:-LEGAL TEXTUAL READINGS:

Part-XIV:-BEST MOVIES ON HUMAN RIGHTS:

1. A Passage to India (1984) [South Asia]
5. Beats of the Antonov (Sudan)
7. Burden of Peace (Guatemala)
8. Calling the Ghosts (1996) [The Rape of Bosnian Muslim Women during the Bosnian War]
9. Cartel Land (Mexico and the US)
10. Dukhtar (2014) [Pakistan]
12. Human (Films For Action, 2015)
15. Life Is Beautiful (1997) [Holocaust]
16. Life is Sacred (Colombia)
17. Mad Max- Fury Road [The Stark Violation of Human Rights; Torture, Gender Inequality & the Right to Food and Water]
20. My Name is Khan (2010) [India]
21. No Land's Song (Iran)
23. Schindler's List (1993) [Persecution by the Nazi Germans]
25. The Black Panthers: Vanguard of the Revolution (US)
27. The Killing Fields (1884) [Pol Pot's bloody ‘Year Zero’ Cleansing Campaign]
29. The Last King of Scotland (2006)
30. The Look of Silence (Indonesia)
31. The Trials of Spring (Tunisia, Egypt, Libya, Yemen, Bahrain & Syria)
32. The Wanted 18 (Palestine)
33. The Whistleblower (2010) [The Post-war Bosnia & the UN Cover-Up of a Sex-Trafficking Scandal]
34. Twelve Years a Slave [Dignity and Freedom]
35. What Tomorrow Brings (Afghanistan)

Part-XV:-BEST DOCUMENTARIES ON HUMAN RIGHTS

1. She's Beautiful When She's Angry [History of Feminism]
2. The White Helmets (Netflix) [Syrian Civil Defence, 2016]
3. The Dark Side of Chocolate [Child Labour, Slavery, Trafficking]
4. The Pearl of Africa [LGBT People]
5. China Blue [17 Year Child Labourer]
6. E-Team (Netflix) [Most Horrific War Crimes]
7. Queer Britain (BBC) [UK's LGBT Culture Today]
8. He Named Me Malala [Rights of Girls (Especially the Right to Education)]
9. Siddharth [The Ugly Face of Child Labour]

Part-XIV

A. THE RECEPTION AND INCORPORATION OF INTERNATIONAL HUMAN RIGHTS REGIME IN SOUTH ASIAN NATIONS

B. THE HUMAN RIGHTS LEGAL FRAMEWORKS IN OTHER COUNTRIES:
   US, Canada, Europe, Australia, China, Latin America, Japan, Malaysia and South Africa etc.