

International Human Rights Law

FALL 2009

CUMULATIVE ASSIGNMENT SHEET No. 4

PROFESSOR SCHNABLY

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Course Materials. The casebook for this course is FORREST MARTIN ET AL., INTERNATIONAL HUMAN RIGHTS & HUMANITARIAN LAW (2006). There is also a separate Documentary Supplement available at the Distribution Center. In addition, there will be some Supplementary Readings, also available from time to time at the Distribution Center.

The Assignment Sheets will refer to the materials as follows:

Abbreviation

Materials

CB

The Casebook

DS

The Documentary Supplement

SR

Supplementary Readings

Note: There will be a fair amount of photocopied material in the Documentary Supplement and Supplementary Readings. The advantage of using a photocopied documentary supplement is that it is tailored to what we are covering. Documentary supplements for a human rights course typically cost about \$25-\$30 new. I have arranged with the Copy Center to cap the cost of the Documentary Supplement for this course below this amount. The Supplementary Readings reflect, in part, the fact that human rights law is a fast-moving subject. I realize it's a fair amount of paper to lug around, but I think it will be worth it. You should always bring the Documentary Supplement and the casebook to every class. You need to bring the Supplementary Readings to class only on days when we are discussing material in it.

Ground Rules

It is your responsibility to be familiar with the following rules, as well as any others I mention in class during the semester. Please make sure you read them before the first class. You can find them at:

http://osaka.law.miami.edu/~schnably/Ground_Rules_IHRL.html

The easiest way to find them is to go to the course website, which you can find by clicking on my law school web page (click on "Faculty & Administration" on the main law school page (www.law.miami.edu) to find it through the Faculty Directory), and then clicking on "course web page."

Syllabus

I. INTRODUCTORY PROBLEM

CB 1-6
SR 1-12; SR 13-19 (optional)
SR 20

II. INTRODUCTION TO BASIC CONCEPTS OF HUMAN RIGHTS AND METHODS OF PUBLIC INTERNATIONAL LAW

A. What Are Human Rights? Perspectives on Fundamental Issues

1. The Universal Declaration and Two Types of Rights: Civil & Political Rights and Economic & Social Rights

CB 941-944
SR 21-22 (Questions on Readings)
DS 77-82 (The Universal Declaration of Human Rights)
SR 23-48

2. Should the U.S. Ratify the International Covenant on Civil and Political Rights and the Optional Protocol to the ESC Covenant?

SR 49-55
DS 104-119 (ESC & Optional Protocol)

3. Cultural Relativism and the Universality of Human Rights

CB 944-958
SR 56-66 (Materials and Questions on Cultural Relativism)

B. Methods of Public International Law

1. The Sources of International Law

- a. Overview

CB 22-23 (§ 2.1)
SR 67-76

- b. Treaties

- i. General

CB 23-28, 271-276
DS 50-76 (Vienna Convention on the Law of Treaties)

- ii. Treaty Interpretation

- a) General

CB 46-71
SR 77-102 (Litwa and ICJ/Wall cases)

- b) Modes of Interpreting Treaties: An Example Based on the Right to Privacy
 - (i) Sexual Orientation
CB 685-692
 - (ii) Abortion
CB 329-337, 724-734
In addition, read the relevant provisions of the American Declaration of the Rights and Duties of Man (DS 164-169) and the European Convention on Human Rights (DS 120-163)
- c. Customary International Law
CB 28-31
SR 103-122
- d. Peremptory Norms (Jus Cogens)
CB 31-46
SR 123-134 (Graham v. State; Amnesty International Petition)
- C. Problem: Does Routinely Shackling Juveniles During Pre-Trial Appearances in Court Violate International Law?
SR 135
- D. Human Rights Law in US Courts
 - 1. The Role of International Law
CB 175, 189-220
SR 136-138 (testimony of Judge Sotomayor)
 - 2. Self-Execution of Treaties
CB 220-253
SR 139-161 (Medellin v. Texas)
SR 123-134 (review)
 - 3. Should the U.S. Ratify CEDAW or the Convention on the Rights of the Child (or both), and on What Terms?
DS 227-237 (CEDAW), DS 238-256 (Senate Executive Report)
DS 365-381 (Convention on the Rights of the Child)
SR 162-173
 - 4. Using U.S. Courts to Litigate Human Rights Violations by Other States
 - a. The Alien Tort Statute and the Torture Victim Protection Act
CB 254-269; DS 565
 - b. Immunity of States and Heads of State
SR 174-205

DS 566-574 (Foreign Sovereign Immunities Act)
CB 148-159 (optional)

- c. Corporations and Human Rights
SR 206-233, CB 132-147

III. HUMAN RIGHTS LAWYERING AND ADVOCACY

A. Global and Regional Petition Mechanisms

- 1. Overview
CB 6-21
- 2. Treaty-Based Mechanisms
ICCPR, Arts. 28-45 (DS 89-940)
ICCPR, Opt. Prot. (DS 96-101).
American Convention on Human Rights, Pt. II (DS 179-188)
CB 270-271, 286-306
SR 247 (chart)
- 3. The Human Rights Council/1503 Procedure
SR 248-277 (Human Rights Council)
DS 645-669

B. Selected Substantive Norms

- 1. Physical Security
 - a. Torture
 - i. What Constitutes Torture?
CB 307-322, 326-329
SR 1-3 (review), SR 278-289 (Is solitary confinement torture?)
DS 576-578 (ICC Statute, Arts. 5, 7)
 - ii. Criminal Liability for Torture: U.S. Law
SR 1-20 (review); SR 290-315
DS 559-564 (War Crimes Act); DS 565-566 (§§ 2340-2340A)
 - iii. Amnesties and Human Rights
CB 171-174
 - b. Kidnapping
CB 364-371; CB 254-267 (Sosa v. Alvarez-Machain) (review)

- c. Enforced Disappearances
CB 71-75, 81-89 (through Note (6))
DS 575-577 (ICC Statute, Arts. 5, 7)
- 2. Freedom of Expression
 - a. “Hate Speech”
CB 768-772
 - b. Indecency
CB 772-789
 - c. National Security
803-825
- 3. Economic, Social, and Cultural Rights
CB 881-911
- 4. Human Rights and Territory
CB 276-286; CB 364-367
SR 95-102 (Legal Consequences of Wall. Opinion) review in light of
Banković)
- 5. Human Rights and States of Emergency

**IV. INTERNATIONAL HUMANITARIAN LAW & INTERNATIONAL CRIMINAL
LAW**