GRADUATE SEMINAR: Advanced Issues in International Human Rights

Professor Christina M. Cerna

Tuesdays 11:10 – 1:10 p.m.

This is a two-credit Seminar that will meet for two hours per week, but carries an extensive workload. Requirements for this Seminar are that a student must have completed both an introductory survey course on international law and also a basic course on the international law of human rights, which will have familiarized you with the global, regional and national mechanisms for the protection of human rights.

Students are required to attend the first class meeting of the seminar, and may not withdraw from the class after the Add/Drop period.

It is suggested that you have as a reference, two texts, INTERNATIONAL HUMAN RIGHTS, Philip Alston & Ryan Goodman (Oxford University Press 2013) and REGIONAL HUMAN RIGHTS SYSTEMS, Christina M. Cerna, Vol. V of the Library of Essays on International Human Rights (Ashgate 2014).

The first two-thirds of the Seminar will be devoted to discussions of selected issues of international human rights law and jurisprudence and the last third will be devoted to the presentation and analysis of student papers. Our objective in this course is to examine the increasingly complex body of substantive law and procedural mechanisms relating to the protection and promotion of human rights and fundamental freedoms in international law and practice. Given the ease of research on the Internet you will be expected to research these issues on your own and to participate in the discussion in class.

As an adjunct professor, I have no formal office hours at the Law School. I can be reached during business hours by phone or e-mail at the contacts listed below and would be happy to talk with you at any time for any purpose. Please identify yourself as a member of this class ("Georgetown human rights Seminar") and, if I am unavailable, leave a phone number where I can reach you at the end of the day.

Prof. Cerna:
Advanced Issues in International Human Rights Law
Spring 2016
Professor C.M. Cerna
11:10 – 1:10 p.m. Tuesdays

Session

1. Jan 19

Introduction: What is international human rights law?
International Human Rights as law; what does universality mean? Are there regional human rights norms? Problem of implementation; should certain situations be prioritized or should all countries be treated the same? What are the UN Human Rights Council and the UPR?
Overview of Seminar: What are the international mechanisms, what are the guiding principles and purposes of these organizations?

a. Discussion of paper topics
Also, Alston & Goodman, pp. 157-380.

2. Jan 26

Human Rights as Foreign Policy – the example of the Carter Administration

View:
IACHR, Report on the Situation of Human Rights in Argentina (1980) (http://www.cidh.org/countryrep/Argentina80eng/toc.htm);
Iain Guest, BEHIND THE DISAPPEARANCES, Argentina’s Dirty War against Human Rights and the United Nations (U Penn press 1990);

3. Feb 2

Introduction: What is international human rights law? The right to life
The United States and the Death Penalty
How are human rights created?
Is there a human right to consular assistance for alien detainees?
Do you have to show actual harm?
Read: ICJ: La Grand case; Inter-American Court of Human Rights: Advisory Opinion No. 16
(http://www.corteidh.or.cr/docs/opiniones/Serie_16_ing.doc).
ICJ: Avena case. (La Grand and Avena are accessible on the ICJ website: www.icj-cij.org);
US Supreme Court, Medellin v Texas (March 25, 2008)

4. Feb. 9
Regional arrangements; the European, inter-American and African regional systems; The universal consensus on the abolition of torture compared to lack of such consensus on the death penalty; Is torture a violation of customary international law? What are precautionary / provisional measures? Are they legally binding? IACHR- Guantanamo Detainees;

ECHR, Mamatkulov and Askarov v. Turkey (February 4, 2005)
(http://cmiskp.echr.coe.int/tkp197/search.asp?skin=hudoc-en
IACHR: Guantanamo Detainees, 12 March 2002;
Alston & Goodman- pp. 415-428 and pp. 891-906, 978-1042;
Cerna xiii-xxx.

( Feb. 16
No class. Faculty retreat. )

5. Feb. 23
United Nations mechanisms: US before the UPR, UN Human Rights Committee and the Committee against Torture; The obligation to investigate, prosecute and punish. The trend towards the abolition of military jurisdiction in the Americas

See also: Alston & Goodman pp. 685-838;
(For UPR:
http://lib.ohchr.org/HRBodies/UPR/Documents/session9/US/A_HRC_WG.6_9_USA_1_United%20States-eng.pdf;
http://lib.ohchr.org/HRBodies/UPR/Documents/session9/US/A_HRC_WG.6_9_USA_2_United%20States%20of%20America_eng.pdf;
Extraterritorial application of international human rights treaties (Part 1)
Should regional human rights bodies extend their jurisdiction beyond the territory of their region? What is the expectation of a victim in another region? Should jurisdiction be circumscribed by the member state exercising “authority and control” or by territorial limits?
Read: ECHR, Bankovic and others v. Belgium (Inadmissibility decision) (http://cmiskp.echr.coe.int/tkp197/);
See also: Alston & Goodman, pp. 906-920.

No class. (Spring break March 6-13, 2016)

Extraterritorial application of international human rights treaties (Part 2)
In the light of the European Court’s decisions in Al-Skeini and Al-Jedda would Bankovic have been decided differently today? Do/should Iraqi nationals have a reasonable expectation that the European Court of Human Rights will offer them protection against acts committed by European member states? What is the purpose of a regional human rights body?
Read: ECHR, Case of Al-Skeini and others v. UK, Judgment 7 July 2011
ECHR, Case of Al-Jedda v. UK, Judgment 7 July 2011.

Extraterritorial application of international human rights treaties (Part 3)
ECHR, Grand Chamber, Case of Hassan v. UK, Judgment of 16 September 2014.

Universality and cultural relativism (Part 1)
Human Rights and Democracy
Is Islam incompatible with democracy?
Is there an international human right to democracy?
Read: Refah Partisi v. Turkey (July 31, 2001)
Refah Partisi v. Turkey (Feb. 21, 2003) (http://cmiskp.echr.coe.int/tkp197/)
See also, Alston & Goodman: pp. 531-578.

How far should human rights organs interfere in cultural/religious matters? Are human rights universal or are there regional differences?
See also, Alston & Goodman: pp. 582-645.

10. Apr 5 Student presentations
11. Apr. 12 Student presentations
12. Apr. 19 Student presentations
13. Apr. 26 Student presentations– Last class

Monday May 2, 2016 May Graduates’ Papers due

[Tuesday May 17, 2016 All Other Papers Due]

May 22, 2016 Commencement