Human Rights & Practice Seminar

Professor’s contact information

Office Location: 312 L
Phone: 352-273-0935
Email: Nagan@law.ufl.edu
Office Hours: Monday & Tuesday 11:00 – Noon, or by appointment. The professor has an open door policy.

Required and recommended textbooks and other course materials

The casebook, written by your professor, Winston Nagan, is posted on TWEN. Please join this class on the TWEN site for access.

Course Objectives

This course will provide the following for students:

- A broad overview of human rights and the primary documentary foundations in modern constitutional law.
- The opportunity to do sophisticated research in human rights from an interdisciplinary, law-focused perspective.
- The opportunity to do individual and team research on issues of impact salience.

Weekly Course Schedule of Topics and Assignments

First Day Assignment:

You may try this as an initial exercise of self-education. Scan the major news outlets and identify from the stories published a human rights problem, or something you think is a human rights problem. Bring your “problem” to class and we will spend some class time (in the first class) figuring out the nature of the problem and how it may be handled if it came to a human rights lawyer for action.

The relative difficulty of the readings varies considerably in this course. Some of the reading is essentially information and context focused. Other readings are denser and require both digestion time and care in understanding and expressing analytical complexity. This means that, for this class purposes, we shall emphasize the issues of analytical complexity of general salience to a deeper “lawyers” understanding of international human rights law. The instructor will not cover every detail of the assigned readings in class.

Most assignments will be selected chapters from the casebook, a book-in-progress on human rights being written by the professor. We shall attempt to cover approximately 50 pages from the casebook per week. Some additional materials may also be assigned from TWEN.
Specific assignments will be determined based on the interests of the students and assigned in class weekly, but topics will be selected from the following:

1. Litigating human rights in the context of the domestic courts of the United States within the framework of civil justice. This part of the course will provide an overview of the somewhat unique, often misunderstood, development of civil rights law in the United States and explores the cases dealing with the private sector enforcement of human rights claims. The student will be introduced into the most current aspects of litigation before the courts, such as the case of *In Re: Apartheid Litigation*. Students will be introduced into the mechanics of writing briefs and amicus briefs to elucidate the scope and character of liability from the point of view of the law of torts. Other examples of contemporary litigation will also be used, such as those arising out of private military contractors.

2. Another distinctive part of the practical side of this course focuses on the work the professor is currently doing as the Abogado Defensor of the Shuar Nation of Ecuador. At one level, the problems of the Shuar Nation are tied to the law of inter-American system and the developing law of human rights of indigenous peoples. However, there is a great practical concern for the crisis that indigenous people face in terms of how their land, economic patrimony and capacity to survive culturally are compromised by powerful forces driven by global market incentives.

Cultural survival and the possibility of extinction are real issues. This part of the course focuses on the importance of law on the ground, in fact law at all levels, as a crucial instrument for protecting the human rights of indigenous peoples, while being somewhat sensitive to the need for cultural adaptation to the changing realities of our time. Central to these issues are the business of making the draft declaration an instrument that may be used in creative advocacy by indigenous people. In addition, there are major questions regarding the title to land that involve both a careful appraisal of Roman Law and modern law, including human rights law, if the special reality of such cultures is to be preserved. Third, there are important legal questions concerning the nature of traditional knowledge: whether traditional knowledge is property under intellectual property law, human rights law, or modern theories of the new property.

The critical question is: what role does law play in providing reasonable access and benefit sharing? Students in this course may be interested in *Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization*. This latter instrument is part of an ongoing discussion within the UN on Article 8j of the Biodiversity Convention. It will be seen in this course that these issues although indirectly connected to human rights are actually critical to the human rights of indigenous people. Students will also be introduced to the litigation strategies of the terms of how “the misappropriation of traditional knowledge may be reflected by law.” The misappropriation of traditional knowledge may well be an issue not simply of intellectual property, but the intersection of intellectual property and the protection of fundamental human rights of indigenous people to traditional knowledge. Thus the principles of access and benefit sharing have human rights aspects.

3. The war on terror has generated practices that it is alleged fall within the prohibition of the law against torture and related practices. Because of the importance of this topic, we provide a careful review of the torture convention as well as the Optional Protocol to it. A review is given of the state of the subject from the perspective of US practice.
4. Another area that we propose to cover is to rethink the general framework of intense deprivations of human rights such as racism, anti-Semitism, apartheid, genocide, and mass murder. This part of the course will focus upon the use of multi-disciplinary skills to rethink the fundamental problem of intense and mass human rights deprivations and the strategies required to constraint them.

5. Weapons of mass destruction and human rights.

6. Transitional justice and human rights. This part of the course will develop a theory of transitional justice and will focus on the changes in South Africa, Colombia an East Germany.

7. We shall also cover the theory of human rights from a humanistic advocacy point of view. This perspective leads to a deeper understanding of the nature of advocacy, decision-making and their relationship to modern communications theory.

**Evaluation**

There is no final exam.

Your final grade will be based as follows:

- 85% of final grade: The 25 page research paper due on the last day of the exam period.
- 15% of final grade: A 15 minute provisional outline of your research, due no later than week 9.

Excessive absences, unless excused, may result in lowering your final grade by ½ a letter grade.

**Class attendance policy**

Attendance is required by Law School and ABA policies. Students may not miss more than 2 classes without providing a valid excuse, school function, religious observance, or family/medical issue. If you have any such absences, please speak to the professor at your earliest convenience. Do not wait until the end of the semester.

Please note that Monday, September 1 is Labor Day and there will be no class on observance of this holiday.
Policy related to make-up exams or other work

The law school policy on delay in taking exams can be found at: http://www.law.ufl.edu/student-affairs/current-students/academic-policies#12.

Statement related to accommodations for students with disabilities

Students requesting classroom accommodation must first register with the Office of Disability Resources. The UF Office of Disability Resources will provide documentation to the student who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

Information on UF Law grading policies

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<td>A-</td>
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<td>C (Satisfactory)</td>
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<tr>
<td>B (Good)</td>
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<td>B-</td>
<td>2.67</td>
<td>D (Poor)</td>
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The law school grading policy is available at: http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9.

Student Course Evaluations

Students can provide feedback on the quality of instruction in this course by completing online evaluations at https://evaluations.ufl.edu. Evaluations are typically open during the last two or three weeks of the semester, but students will receive notice of the specific times when they are open. Summary results of these assessments are available to students at https://evaluations.ufl.edu/results/.