

**Module** : **Human Rights Law**

**Theme** : **Public Law**

### **Aims**

This course aims to provide the student with:

- An understanding of the relationship between domestic law and international human rights law
- Detailed knowledge, understanding and analysis of thematic debates that arise within human rights discourse
- Detailed knowledge, understanding and analysis of the particular rights protected under international human rights law, especially under the ECHR
- To consider how an international atmosphere of terrorism-combat can and does affect the protection of human rights
- To expose human rights law as being, at once, aspirational, effective, political and apolitical and to develop in students the skills needed to form independent analyses of different contemporary situations.

### **Syllabus**

#### Introduction

- Human Rights and International Law
- Basic Principles of International Law
- The historical development of human rights law: historical antecedents
- Philosophical antecedents of human rights law.
- Sources of International Law
- International Law and Municipal Law
- The UN System for the Protection of Human Rights: An Overview
- Development of Regional Human Rights Systems

#### Jurisprudential Aspects of Human Rights Law

##### Cultural Relativism v. Universalism

- Cultural Relativism
- Universalism
- Jurisprudential Elements of the Relativism v. Universalism Debate
- Case Study: East Asian Perspectives: The Asian Values Debate
- Case Study: Female Genital Mutilation

##### Feminism and Human Rights

- Feminism
- Challenges to feminism within international human rights law
- The UN and the protection of women's rights: historical perspectives

- The Convention on the Elimination of All Forms of Discrimination Against Women
- Obstacles to the protection of women's rights
- CEDAW and Ireland
- Case Study: Gender and Refugee Law

#### Economic v. Civil and Political Rights

- The nature of economic, social and cultural rights
- States' obligations under the International Convention for Economic, Social and Cultural Rights
- The nature of civil and political rights
- The International Convention on Civil and Political Rights
- The Human Rights Committee
- Withdrawal from the Covenant
- Individual Petition Procedure
- Case Study: The ICCPR, the death penalty, and death row phenomenon.

#### International Criminal Law: The inter-relationship between international human rights law and international humanitarian law.

- Development of international criminal law
- Potential for the ICC to repress human rights violations

#### European Convention on Human Rights

- Jurisdiction of the ECHR
- Relationship with Irish Law
- Development of the Institutions of the ECHR
- Enforcement Procedure
- Procedure for bringing and action before the Court
- Admissibility
- Introduction of Additional Protocols
- Possible Reform

#### Right to Life

Right to freedom from torture, inhuman and degrading treatment or punishment

Freedom of Expression

Personal Liberty and Bodily Integrity

Right to Due Process of Law

Right to Privacy

Freedom of Religion

Right to Property

Right to Education

#### Terrorism and Human Rights Law

- International human rights law and emergency powers – derogations
- The ECHR Article 15

- ECHR Case Law
- Inter-American Court of Human Rights and derogations
- The Human Rights Committee and derogations
- Terrorism, Human Rights and developments post Sept. 11
  - The USA – Patriot Act
  - The UK
- Case Study: The UK Anti-Terrorism, Crime and Security Act 2001

### **Workload**

Contact	90 hours
Directed Learning Time	30 hours
Independent Learning Time	60 hours
Assessment Time	20 hours
Total	200 hours

### **Teaching and Learning Methods**

This course will consist of highly discursive lectures and formal lectures, during which students will be encouraged to offer their independent opinions on particular topics. From time to time students will also be asked to complete case studies and present them to the class, followed by question and answer sessions. While the course will primarily deal with European case law, inasmuch as it deals with substantive law, decisions of UN, African and Inter-American courts will also be considered where appropriate in order to present a full picture of the legal situation in any particular area of the law. Contemporary news stories and events will be used as the focus for many class discussions on different elements of human rights law.

#### *Integration and Linkage*

Human Rights Law integrates quite well with a number of legal subjects particularly Constitutional Law and Jurisprudence. This subject will add an international dimension to the student's earlier study of human rights as guaranteed under the Irish Constitution. The student's knowledge of the Irish Legal System will prove to be an advantage, as the student shall study the impact of the European Convention on the Irish legal system. Knowledge of Jurisprudence will also be useful as the student may apply different theories of law to particular areas of Human Rights Law.

### **Learning Outcomes**

On module completion the student shall be able to:

- Describe the relationship between international human rights law and municipal law in both a monist and dualist legal system

- Critically discuss the theoretical basis of international human rights law, and especially analyse whether the western liberal influences on the development of international human rights make it incompatible with particular cultures, and with the protection of people in the private sphere (especially women and children).
- Develop a clear personal analysis on the separation of rights into three generations (civil and political, social economic and cultural, and group), and whether this separation reflects liberal philosophy.
- Evaluate different elements of the European Convention on Human Rights and Fundamental Freedoms including the tests of admissibility and principles of law developed by the court.
- Assess how emergency legislation can be at odds with both international and regional human rights obligations, with a particular focus in laws introduced in the UK and the USA in response to the War on Terror.

### **Assessment**

Coursework will account for 30% of the assessment marks. A written examination will also be held on module completion accounting for 70% of the assessment marks. The coursework may involve the completion of a case study by the students. The examination will be a three-hour closed book examination requiring students to complete a series of problem and essay style questions with emphasis on the students' ability to critically discuss relevant issues.

### **Reading List**

#### *Essential*

Steiner & Alston, *International Human Rights in Context: Law, Politics, Morals*, 2<sup>nd</sup> Edition, (2002, Oxford: Oxford University Press)

Rehman, *International Human Rights Law: A Practical Approach*, (2002, Pearson Education)

Wallace, *International Human Rights: Text and Materials* (1997, Sweet & Maxwell)

Dickson, *Human Rights and the European Convention*, (1997, Sweet & Maxwell)

Ovey & White, *Jacobs & White: The European Convention on Human Rights*, 3<sup>rd</sup> Edition, (2002, Oxford University Press)

Kilkelly (ed), *The ECHR and Irish Law*, (2004, Bristol; Jordan's)

#### *Recommended*

Alston, *The UN and Human Rights: A Critical Appraisal*, (1992, Oxford; Clarendon Press)

Donnelly, *Universal Human Rights in Theory and Practice*, (1989, Cornell University Press)

Zimmerman, Duncker & Humbolt (ed.s), *International Criminal Law and the Current Development of Public International Law*, (2002)

Chinkin & Charlesworth, *The Boundaries of International Law: A Feminist Analysis*, (2000, Manchester University Press)

Schabas, *The International Criminal Court*, 2<sup>nd</sup> Edition, (2004, Cambridge University Press)