

MONASH UNIVERSITY, AUSTRALIA

MODULE NO.6

**INTERNATIONAL MECHANISMS FOR PROTECTION AND PROMOTION OF
HUMAN RIGHTS**

By Assoc Prof Julie Debeljak

GENERAL INFORMATION

- 1) Name of module: International Mechanisms for Protection and Promotion of Human Rights.
- 2) Module: required
- 3) Code of module: CAL 6004
- 4) Number of credit: 3
- 5) Credit hours for activities:
 - a) + Lecture: 27 hours
 - b) + Practice: 9 hours
 - c) + Self study: 9 hours

LEARNER PRE-REQUISITES

- Learner: Graduate students
- Prerequisite module: CAL 6003

OBJECTIVES OF THE MODULE

This module is intended to enable students:

- 1) Understand the theoretical issues of the necessity and characteristics of the UN human rights mechanism.
- 2) Understand the organizational structure, functions and duties of the UN human rights mechanism.
- 3) Understand the procedures for monitoring and investigating violations of human rights by UN human rights agencies; the practical effect and development trend of the international human rights regime.

CONTENT SUMMARY

This module includes the following basic contents:

- 1) A profile of international human rights instruments;
- 2) A profile of the United Nations goals and activities in the area of human rights;
- 3) An overview of the United Nations human rights protection and promotion mechanisms: Charter-based and Treaty-based mechanisms;
- 4) An overview of the United Nations human rights bodies agencies: Charter-based and Treaty-based mechanisms;
- 5) Analysis of the modalities, procedures and processes in the United Nations human rights system: Charter-based and Treaty-based mechanisms; and
- 6) Actual effect and development trend of the United Nations human rights mechanism.

THE DETAILED CONTENT OF THE MODULE

	Topic	Description	Session: Lecture	Session: Exercise and Case study	Self- Learn time	Staff
1	Overview of International Human Rights Norms and the United Nations	<p>This topic:</p> <ul style="list-style-type: none"> • provides an overview of the current body of international human rights norms; • considers how human rights fit into the broader framework of public international law; • introduces some basic concepts of international human rights law; • considers the human rights goals and activities of the United Nations; and • overviews the United Nations human rights mechanisms. 	3		1	Julie
2	The United Nations Charter-based Agencies and Mechanisms (1): General Assembly,	This topic explores the human rights role of the General Assembly, the Security Council, the Economic and Social Council, and the Office of the	1			Julie

	Security Council, ECOSOC, OHCHR	High Commission for Human Rights.				
3	The United Nations Charter-based Agencies and Mechanisms (2): Human Rights Council	<p>This topic:</p> <ul style="list-style-type: none"> • considers the history and background to the establishment of the Human Rights Council; • the modalities, processes and procedures of the Human Rights Council; • the differences between the Human Rights Council and its predecessor the Commission on Human Rights; and • compares the performance of the Human Rights Council to that of its predecessor the Commission on Human Rights 	4		1	Julie
4	The United Nations Charter-based Agencies and Mechanisms (2): Human Rights Council in Practice – UPR, Special Procedures	<p>This topic considers the workings and outcomes of the Human Rights Council through case studies and group exercises:</p> <ul style="list-style-type: none"> • UPR; and • Special Procedures. 		2	2	Julie, with Dr Tung for UPR
5	The United Nations Treaty-Monitoring Bodies and Mechanisms (1): Human Rights Committee	<p>This topic:</p> <ul style="list-style-type: none"> • introduces the concept of treaty monitoring bodies; • explores the establishment, powers, and practices of the Human Rights Committee established under the <i>ICCPR</i>; • includes case studies and class exercises on individual communications; and 	2	1	1	Julie

		<ul style="list-style-type: none"> considers the recent reforms of the TMB procedures and processes. 				
6	The United Nations Treaty-Monitoring Bodies and Mechanisms (2): Committee on ESC rights	This topic explores the establishment, powers, and practices of the Committee on Economic, Social and Cultural Rights established under the <i>ICESCR</i> . This will include a case study/class exercise on General Comments.	2	1		Julie
7	The United Nations Treaty-Monitoring Bodies and Mechanisms (3): CEDAW Committee, and CRC Committee	This topic explores the establishment, powers, and practices of the Committee on the Elimination of Discrimination Against Women under the <i>CEDAW</i> , and the Committee on the Rights of the Child under the <i>CRC</i> . This will include a case study/class exercise on Concluding Comments/Observations.	1	2	2	Julie, with Dr Tung
8	The United Nations Treaty-Monitoring Bodies and Mechanisms (4): CAT Committee and CERD Committee	This topic explores the establishment, powers, and practices of the Committee against Torture and the Subcommittee on the Prevention of Torture under the CAT, and the Committee on the Elimination of Racial Discrimination under the <i>CERD</i> . This will include a case study of the urgent action power of the CERD Committee led by the lecturer.	2		1	Julie
9	Vietnam and the United Nations Human Rights Mechanisms	Topic presented by VNU-SL	3		1	Dr Tung
10	United Nations Special Procedures and their impacts to	Seminar presented by VNU-SL.	3		1	Dr Tung

	national practice (including Vietnam)					
	TOTAL HOURS		27 hours		10 hours	

TIMETABLE

Day	Topic	Time	Lecturer	Case Study Preparation
Monday 19 March	<ul style="list-style-type: none"> Topic 1: Overview of International Human Rights Norms and the United Nations (3 hours) 	3 hours	Dr Debeljak	No
Tuesday 20 March	<ul style="list-style-type: none"> Topic 2: The United Nations Charter-based Agencies and Mechanisms (1): General Assembly, Security Council, ECOSOC, OHCHR (1 hour) 	1 hour	Dr Debeljak	No
	<ul style="list-style-type: none"> Topic 3: The United Nations Charter-based Agencies and Mechanisms (2): Human Rights Council 	2 hours		No
Wednesday 21 March	<ul style="list-style-type: none"> Topic 3 (contd) 	2 hours	Dr Debeljak	Yes
	<ul style="list-style-type: none"> Topic 4: The United Nations Charter-based Agencies and Mechanisms (2): Human Rights Council in Practice 	1 hour		
Thursday 22 March	<ul style="list-style-type: none"> Topic 4 (contd) 	1 hour	Dr Debeljak	Yes
	<ul style="list-style-type: none"> Topic 5: The United Nations Treaty-Monitoring Bodies and Mechanisms (1): Human Rights Committee 	2 hours		
Friday 23 March	<ul style="list-style-type: none"> Topic 5 (contd) 	1 hour	Dr Debeljak	Yes
	<ul style="list-style-type: none"> Topic 6: The United Nations Treaty-Monitoring Bodies and Mechanisms (2): Committee on ESC rights 	2 hours		
Saturday 24	<ul style="list-style-type: none"> Topic 6 (contd) 	1 hour	Dr	

March: AM	<ul style="list-style-type: none"> Topic 7: The United Nations Treaty-Monitoring Bodies and Mechanisms (3): CEDAW Committee, and CRC Committee 	2 hours	Debeljak	Yes
Saturday 24 March: PM	<ul style="list-style-type: none"> Topic 7 (contd) Topic 8: The United Nations Treaty-Monitoring Bodies and Mechanisms (4): CAT Committee and CERD Committee 	1 hour 2 hours	Dr Debeljak	
Monday 26 March	<ul style="list-style-type: none"> Topic 9: Vietnam and the United Nations Human Rights Mechanisms 	3 hours	Dr Tung	
Tuesday 27 March	<ul style="list-style-type: none"> Seminar: United Nations Special Procedures and their impacts to national practice (including Vietnam) 	3 hours	Dr Tung	

There is flexibility built into the course because of the need for interpretation across topics 1 to 8. If interpretation time impacts on the planned presentation of content, there is a chance that some case studies/group exercises will not be completed during topics 1 to 8. In this event, Dr Tung may choose to complete these case studies in Topic 9 (lecture) or in Topic 10 (seminar). In any event, either way, Dr Tung can use the case studies in future offerings of the course where time is not lost because of interpretation.

READING MATERIALS

VNU-SL Readings Materials

To complete the module, students are asked to read the materials below. (Note: This list is just the basic materials. Students may need to find additional materials to supplement the list.)

Required materials:

- 1) Faculty of Law - VNU, Theories and Law on Human Rights Textbook, National Publishing House, Hanoi, 2011.
- 2) Faculty of Law - VNU, Introduction to the International Covenant on Civil and Political Rights (ICCPR, 1966), Hong Duc Publishing House, 2012.
- 3) Faculty of Law - VNU, Introduction of International Convention on Economic, Social and Cultural Rights (ICESCR, 1966), Hong Duc Publishing House, 2012.

Reference materials:

- 4) Faculty of Law - VNU, Q & A on human rights, National Political Publishing House, Hanoi, 2010.

- 5) Faculty of Law - VNU, Introduction of international instruments on human rights, Labor and Social Publishing House, 2011.
- 6) Gudmundur Alfredsson (Editor), Universal Declaration of Human Rights 1948: the common goal of humankind, Faculty of Law-VNU, translated, Labor and Social Publishing House, 2011.
- 7) Faculty of Law - VNU, International Human Rights Law, Ministry of Labor and Social Affairs, 2011.
- 8) Wolfgang Benedek (Editor), Understanding human rights, Justice Publishing House, Hanoi, 2008.
- 9) Nguyen Ba Dien (Editor), International Public Law, VNU Publishing House, 2013.
- 10) United Nations, Human Rights Mechanism, Fact Sheet No.1, Geneva, 1987.
- 11) United Nations, Communications Procedures, Fact Sheet No.7, Geneva, 1997.
- 12) Bertrand G. Ramcharan, The UN Human Rights Council, Routledge, 2011.
- 13) Wouter Vandenhoele, The Procedure before the UN Human Rights Treaty Bodies: Divergence or Convergence ?, Intersentia, 2004.
- 14) Javaid Rehman, International Human Rights Law, A Practical Approach, University of Leeds, Longman, Pearson Education Limited, 2003.
- 15) Rhona K. Smith, International Human Rights Law, Oxford University Press, 2007.

Monash Proposed Reading Materials

To complete the module, students are asked to read the materials below. (Note: This list is just the basic materials. Students may need to find additional materials to supplement the list.)

Required materials:

- 1) Faculty of Law – VNU, *Theories and Law on Human Rights Textbook*, National Publishing House, Hanoi, 2011.
- 2) Faculty of Law – VNU, *Introduction to the International Covenant on Civil and Political Rights (ICCPR, 1966)*, Hong Duc Publishing House, 2012.
- 3) Faculty of Law – VNU, *Introduction of International Convention on Economic, Social and Cultural Rights (ICESCR, 1966)*, Hong Duc Publishing House, 2012.
- 4) Topic 4: UPR Case Study:
 - a) Viet Nam UPR Round 1
 - i) Human Rights Council, *Report of the Working Group on the UPR: Viet Nam*, UN Doc A/HRC/12/11 (5 October 2009), **focusing on paragraphs 5-26, and 99-103 (available in Vietnamese)**
 - ii) Viet Nam's response: Human Rights Council, *Report of the Working Group on the UPR: Viet Nam*, UN Doc A/HRC/12/11/Add.1 (16 September 2009)
 - b) Viet Nam UPR Round 2
 - i) Human Rights Council, *Report of the Working Group on the UPR: Viet Nam*, UN Doc A/HRC/26/6 (2 April 2014), **focusing on paragraphs 5-18, and 143-144 (available in Vietnamese)**
 - ii) Viet Nam's response: Human Rights Council, *Report of the Working Group on the UPR: Viet Nam*, UN Doc A/HRC/26/6/Add.1 (20 June 2014)
 - c) Australia UPR Round 1

- i) Human Rights Council, *Report of the Working Group on the UPR: Australia*, UN Doc A/HRC/17/10 (24 March 2011), **focusing on paragraphs 5-11, and 86-88**
 - ii) Australia's response: Human Rights Council, *Report of the Working Group on the UPR: Australia*, UN Doc A/HRC/17/10/Add.1-Australia (31 May 2011)
 - d) Australian UPR Round 2
 - i) Human Rights Council, *Report of the Working Group on the UPR: Australia*, UN Doc A/HRC/31/14 (13 January 2016), **focusing on paragraphs 5-10, and 136-146**
 - ii) Australia's response: Human Rights Council, *Report of the Working Group on the UPR: Australia*, UN Doc A/HRC/31/14/Add/1-Australia (29 February 2016)
- 5) Topic 5: Individual Communications Case Study
 - a) *Toonen v Australia* (488/1992), UN Human Rights Committee, UN Doc No CCPR/C/50/D/488/1992 (1994) (extracts)
 - i) *Human Rights (Sexual Conduct) Act 1994* (Cth)
 - b) *A v Australia* (560/1993), UN Human Rights Committee, UN Doc No CCPR/C/59/D/560/1993 (3 April 1997) (extracts)
 - i) Daryl Williams (Attorney-General) and Philip Ruddock (Minister for Immigration and Multicultural Affairs), 'Australian Government Responds to the United Nations Human Rights Committee' (Joint News Release, 17 December 1997).
 - c) *Brough v Australia* (1184/2003), UN Human Rights Committee, UN Doc No CCPR/C/86/D/1184/2003 (27 April 2006) (extracts)
 - i) Attorney General's Department, *Response of the Australian Government to the View of the Committee in Communication No 1184/2003 Brough v Australia*
- 6) Topic 6: General Comment Case Study
 - a) Committee on Economic, Social and Cultural Rights, *General Comment No 20 on Non-Discrimination in Economic, Social and Cultural Rights (art 2(2) of ICESCR)*, UN Doc E/C.12/GC/20 (2 July 2009) **(available in Vietnamese)**
 - b) Committee on Economic, Social and Cultural Rights, *General Comment No 22 (2016) on the Right to Sexual and Reproductive Health (art 12 ICESCR)*, UN Doc E/C.12/GC/22 (2 May 2016) **(available in Vietnamese)**
 - c) Committee on Economic, Social and Cultural Rights, *General Comment No 23 (2016) on the Right to Just and Favourable Conditions of Work (art 7 ICESCR)*, UN Doc E/C.12/GC/23 (27 April 2016) **(available in Vietnamese)**
- 7) Topic 7: Periodic Review Case Study
 - a) Viet Nam:
 - i) Committee on the Elimination of Discrimination Against Women, *Concluding Observations on Viet Nam*, UN Doc No CEDAW/C/VNM/CO/7-8 (29 July 2015) **(available in Vietnamese)**
 - ii) Committee on the Elimination of Discrimination Against Women, *Concluding Comments on Viet Nam*, UN Doc No CEDAW/C/VNM/CO/6 (2 February 2007) **(available in Vietnamese)**
 - b) Australia:
 - i) Committee on the Elimination of Discrimination Against Women, *Concluding Observations on Australia*, UN Doc No CEDAW/C/AUL/CO/7 (30 July 2010)

- ii) Committee on the Elimination of Discrimination Against Women, *Concluding Comments on Australia*, UN Doc No CEDAW/C/AUL/CO/5 (3 February 2006)

Recommended materials (English Language only)

- 8) Rhona K. Smith, *International Human Rights Law* (6thed, Oxford University Press, 2014), pages 37-49 (ch 4 extracts) and 52 to 81 (ch 5 extracts)
- 9) Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials and Commentary*, (3rd edition, Oxford University Press, 2013), ch 1 and ch 2
- 10) Sarah Joseph and Joanna Kyriakakis, 'The United Nations and Human Rights' in Sarah Joseph and Adam McBeth, *Research Handbook on International Human Rights Law* (Edward Elgar, Cheltenham, 2010), pages 1 to 26 (ch 1 extracts)
- 11) Adam McBeth, Justine Nolan and Simon Rice, *The International Law of Human Rights* (2nd ed, Oxford University Press, Melbourne, 2017) pages 185 to 228 (ch 6)
- 12) Commonwealth Department of Foreign Affairs and Trade, *Human Rights Manual – Australia and Human Rights: An Overview* (4thed, Canberra, 2017) (see also <http://dfat.gov.au/about-us/publications/Pages/human-rights-manual-fourth-edition.aspx>)

Reference materials:

- 13) Faculty of Law – VNU, *Q & A on human rights*, National Political Publishing House, Hanoi, 2010.
- 14) Faculty of Law – VNU, *Introduction of international instruments on human rights*, Labor and Social Publishing House, 2011.
- 15) Faculty of Law – VNU, *International Human Rights Law*, Ministry of Labor and Social Affairs, 2011.
- 16) Wolfgang Benedek (Editor), *Understanding Human Rights*, Justice Publishing House, Hanoi, 2008.
- 17) Nguyen Ba Dien (Editor), *International Public Law*, VNU Publishing House, 2013.
- 18) United Nations, *Individual Complaints Procedures under the UN Human Rights Treaties*, Fact Sheet No.7/Rev 2, Geneva, 2013.
- 19) United Nations, *Civil and Political Rights: the Human Rights Committee*, Fact Sheet No 15/Rev 1, Geneva, 2005.
- 20) United Nations, *The United Nations Human Rights Treaty System*, Fact Sheet No 30/Rev 1, Geneva, 2012.
- 21) Bertrand G. Ramcharan, *The UN Human Rights Council*, Routledge, 2011.
- 22) Manisuli Ssenyonjo, *Economic, Social and Cultural Rights in International Law* (2nded, Hart Publishing, Oxford, 2016)
- 23) Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials and Commentary*, (3rd edition, Oxford University Press, 2013)
- 24) Ben Saul, David Kinley and Jaqueline Mowbray, *The International Covenant on Economic, Social and Cultural Rights: Cases, Materials and Commentary*, (Oxford University Press, 2014)
- 25) Philip Alston and Ryan Goodman, *International Human Rights: The Successor to International Human Rights in Context* (Oxford University Press, Oxford, 2013)
- 26) Adam McBeth, Justine Nolan and Simon Rice, *The International Law of Human Rights* (2nded, Oxford University Press, Melbourne, 2017)
- 27) Sarah Joseph and Adam McBeth, *Research Handbook on International Human Rights Law* (Edward Elgar, Cheltenham, 2010)
- 28) Olivier De Schutter, *International Human Rights Law: Cases, Materials and Commentary* (2nd Cambridge University Press, Leiden, 2014)

29) Catarina Krause and Martin Scheinin, *International Protection of Human Rights: A Textbook* (Abo Akademi University Institute for Human Rights, 2009)

Explanation of the Changes

I have retained all materials that have been produced by VNU-SL and/or are published by a Vietnamese publishing house – both in prescribed and reference readings. This is because it is good to have resources in Vietnamese, and I am not able to read them and assess them.

I have added a series of recommended readings. These are English-language chapters from international human rights law textbooks. Each chapter is an overview piece.

I have updated the list of UN Fact Sheets. Fact Sheet No 1 is currently archived (available for historical purposes only, and currently subject to revision). FactSheet No 7 was revised in 2013, so I list the revised edition. I added two relevant and current (not archived) Fact Sheets.

I have added a series of textbooks in the reference materials.

I have excluded the following readings, for the following reasons:

- Gudmundur Alfredsson and Asbjorn Edie (eds), *Universal Declaration of Human Rights 1948: A Common Standard of Achievement* (1999, Kluwer Law International), Faculty of Law-VNU, translated, Labor and Social Publishing House, 2011
 - Of historical interest, but not particularly relevant to this module.
- Wouter Vandenhoele, *The Procedure before the UN Human Rights Treaty Bodies: Divergence or Convergence?*, Intersentia, 2004
 - This publication is now too old. There has been an expansion in Treaty Bodies, and a great deal of reform of the Treaty Body system since 2004.
- Javaid Rehman, *International Human Rights Law, A Practical Approach*, University of Leeds, Longman, Pearson Education Limited, 2003
 - I was not able to locate this publication. However, I have other introductory textbooks that are more recently published than this text.