

MONASH UNIVERSITY, AUSTRALIA

MODULE NO. 4
CAL 6015: INTERNATIONAL HUMAN RIGHTS PRINCIPLES AND
STANDARDS

Lecturers:

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1. General information

- Name of module: International Human Rights Principles and Standards
- Module: Required
- Code of module: CAL 6002
- Number of credit: 3
- Credit hours for activities:
 - + Lecture: 27
 - + Practice: 9
 - + Self study: 9

2. Learner and Prerequisite

- Learner: Graduate students
- Prerequisite module: CAL 6001

3. Objectives of the module

This module is intended to enable students:

- 1) Understand the history and development of international human rights law; character, position and role of international human rights law as an independent branch of modern international law; and

- 2) Understand the basic principles and international standards of human rights and the implications of these principles and standards in the world.

4. Content summary

This module includes the following basic contents:

- 1) An overview of the history and development of the modern system of international human rights law, including an introduction to relevant public international law concepts and the modern human rights instruments.
- 2) The concepts, subjects, sources and methods of regulation of international human rights law, including an overview of the rights and freedoms.
- 3) Civil and political rights.
- 4) Economic, social and cultural rights.

5. The detailed content of the module

The contents of the module are detailed in the table below:

No	Topic Name	Topic Description	Session: Lecture	Session: Case study/ Group Exercise	Self-Learning (time)	Staff
1	History and Development of the modern system of International Human Rights Law	<p>This topic will:</p> <ul style="list-style-type: none"> • Briefly overview the basic principles of public international law (sources, subjects, state responsibility), and explore how human rights fit into the broader public international law framework. • Consider the history and development of the modern system of international human rights norms; • Overview of the major human rights instruments; 	3			Julie

		<ul style="list-style-type: none"> • Explore the range of guaranteed rights and freedoms of individuals • Consider the interaction between international human rights and domestic legal systems 				
2	The concepts, subjects, sources and methods of regulation of international human rights law	<p>This topic will:</p> <ul style="list-style-type: none"> • Explore the obligations imposed under IHRL (e.g, non-discrimination, equality, effective remedies); • Consider who has obligations under IHRL; • The characteristics, structure, status and generations/hierarchy of rights • Explore the justiciability of rights • Profile the types of enforcement of rights • Consider the capacity to restrict rights (reservations, derogations, qualifications, limitations) 	3			Julie
3	Civil and political rights (1): Right to life; right to liberty and security	<p>This topic will review the content of civil and political rights under international human rights law:</p> <ul style="list-style-type: none"> • Right to life, including the death penalty • Right to personal liberty and security 	3	<i>S v Makwanyane and Another</i> [1995] ZACC 3 (Death Penalty)	1	Julie
4	Civil and political rights (2): Right to fair trial; freedom from torture and cruel, inhuman and degrading	<p>This topic will review the content of civil and political rights under international human rights law:</p> <ul style="list-style-type: none"> • Right to fair trial • Freedom from torture, and inhuman and degrading 	3	<i>Eremia and Others v The Republic of Moldova</i> (ECtHR, 28 May 2013) (domestic	1	Julie

	treatment and punishment; right to humane treatment if deprived of liberty	treatment and punishment (nature of the freedom and nature of absolute prohibitions) <ul style="list-style-type: none"> • Right to humane treatment when deprived of liberty 		violence as torture and gender-based discrimination		
5	Civil and political rights (3): Freedom of thought, belief and religion; Freedom of expression, association and peaceful assembly; Right to participate in political life; Freedom of movement and residence.	This topic will review the content of civil and political rights under international human rights law: the rights to <ul style="list-style-type: none"> • freedom of thought, belief and religion; • freedom of expression, association and peaceful assembly; • Right to participate in political life • freedom of movement and residence. 	3	Group exercise: freedom of Religion – General Comment and Special Rapporteur’s report	1	Tania
6	Civil and political rights (4): Right to: non-discrimination and equality; to privacy; to marry and to equality of rights in marriage	This topic will review the content of civil and political rights under international human rights law: <ul style="list-style-type: none"> • the right to equality and non-discrimination • the right to privacy • the right of marriage • equality of rights as to marriage. 	3	Case study: <i>Toonen v Australia</i> , Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994)	1	Tania
7	Economic, social and cultural rights (1): Right to enjoy and maintain an adequate standard of living; labour rights, right to social security	This topic will review the content of economic, social and cultural rights under international human rights law, namely the International Covenant on Economic, Social and Cultural Rights and other instruments including the Convention on the Elimination of all forms of Discrimination against	3		1	Tania

	and family support.	<p>Women and the Convention on the Rights of Persons with Disabilities:</p> <ul style="list-style-type: none"> • the right to equality & non-discrimination • Labor rights including the right to work and the right to just and favourable conditions of work. 				
8	Economic, social and cultural rights (5): Right to education, the right to participate in cultural life.	<p>This topic will review the content of economic, social and cultural rights under international human rights law:</p> <ul style="list-style-type: none"> • the right to enjoy and maintain an adequate standard of living • right to social security • family support rights • the right to education. 	3	Group Exercise: Right to food- Preliminary observations of Special Rapporteur on the Right to Food- November 2017 visit to Viet Nam.	1	Tania
9	Economic, social and cultural rights (4): Right to physical and mental health; right to enjoy the benefits of scientific progress.	<p>This topic will review the content of economic, social and cultural rights under international human rights law:</p> <ul style="list-style-type: none"> • The right to participate in cultural life • The right to enjoy the benefits of scientific progress and its applications • The right to enjoy the highest attainable standard of physical and mental health. 	3	Case study: <i>Minister of Health v Treatment Action Campaign (TAC)</i> (2002) 5 SA 721	1	Tania

6. Time

The module consists of 45 credit hours (27 hours of theory, 9 hours of practice, 9 hours of study). This is a compulsory module that requires full attendance.

7. Examination and evaluation

The module applies a continuous assessment. The evaluation are based on:

- (1) Attendance in class lecture: 25%
- (2) Essay and assignment: 25%
- (3) Final exam: 50%.

The total grade is calculated by adding up percentage students get, then convert to 10 mark system to calculate credit mark system.

8. 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 Reading:

Many of the required readings are available in Vietnamese. Other required readings are only available in English. Whilst the English language materials will be covered in lectures/seminars, students are encouraged to read these materials to further their understanding and comprehension of the lectures/seminars.

The first three required readings are prescribed textbooks that you will need to access yourselves. The remainder of the prescribed readings are available on the Google Drive. Teaching materials, such as PowerPoint and Case Study Instructions, will be available on the Google Drive in due course.

- 1) Faculty of Law – Vietnam National University, Theories and Law on Human Rights, National Publishing House, Hanoi, 2011 (available only in Vietnamese).
- 2) Faculty of Law – Vietnam National University, Introduction of the International Covenant on Civil and Political Rights (ICCPR, 1966), Hong Duc Publishing House, 2012 (available only in Vietnamese).
- 3) Faculty of Law – Vietnam National University, Introduction to the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), Hong Duc Publishing House, 2012 (available only in Vietnamese).

- 4) International Human Rights Treaties (available in Vietnamese and English):
 - a) *International Covenant on Civil and Political Rights* (1966)
 - b) *(First) Optional Protocol to the International Covenant on Civil and Political Rights* (1966)
 - c) *Second Optional Protocol to the the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty* (1990)
 - d) *International Covenant on Economic Social and Cultural Rights* (1966)
 - e) *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights* (2008)

- 5) Topic 1:
 - a) Martin Dixon, *Textbook on International Law* (7th ed, Oxford University Press, Oxford, 2013) ch 1 and 2 extracts (available only in English)

- 6) Topic 2:
 - a) Maya Hertig Randall, 'The History of International Human Rights Law' in Robert Kolb and Gloria Gaggioli (eds), *Research Handbook on Human Rights and Humanitarian Law* (Edward Elgar 2013) 3 (available only in English)
 - b) Rhona KM Smith, *Textbook on International Human Rights* (8th ed, Oxford University Press, Oxford, 2017, ch 4 (International Bill of Rights) and ch 5 (The United Nations – Organisational Structure) (available only in English)

- 7) Topic 3: Life; Liberty and Security
 - a) General Comments
 - i) UN Human Rights Committee, *General Comment No 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, UN Doc CCPR/C/GC/36 (30 October 2018) (available in English only)
 - ii) UN Human Rights Committee, *General Comment No. 35, Article 9 (Liberty and Security of the Person)*, UN Doc CCPR/C/GC/35 (16 December 2014) (available in English only)
 - b) *S v Makwanyane and Another* [1995] ZACC 3 (available only in English)

- 8) Topic 4: Fair Trial; Freedom from Torture and CIDTP; Humane Treatment when Deprived of Liberty
 - a) General Comments
 - i) UN Human Rights Committee, *General Comment No 32: Article 14 Right to Equality before Courts and Tribunals and to a Fair Trial*, UN Doc CCPR/C/GC/32 (23 August 2007) (available in Vietnamese and English)
 - ii) UN Human Rights Committee, *General Comment No 21: Article 10 (Humane treatment of persons deprived of their liberty)*, HRC 44th session, (1992) (available in Vietnamese and English)
 - iii) UN Human Rights Committee, *General comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)*, HRC 44th session, (1992) (available in Vietnamese and English)

- b) *Case of Eremia v Republic of Moldova* (ECtHR, Application No 3564/11) 28 May 2013 (available only in English)
- 9) Topic 5: Thought, Belief and Religion; Expression, Association and Peaceful Assembly; Participate in Political Life; Movement and Residence
- a) Human Rights Council, *Report of the Special Rapporteur on the Freedom of religion and belief (Heiner Bielefeldt)*, UN Doc A/HRC/28/66/Add.2 (30 January 2015) (available in Vietnamese and English)
 - b) UN Human Rights Committee, *General Comment No 22 (Art 18 Freedom of Thought Conscience and Religion)*, UN Doc CCPR/C/21/Rev.1/Add.4 (27 September 1993) (available in Vietnamese and English)
 - c) Additional General Comments
 - i) UN Human Rights Committee, *General Comment No 34 Article 19: Freedoms of opinion and expression*, UN Doc CCPR/C/GC/34 (12 September 2011) (available in Vietnamese and English)
 - ii) UN Human Rights Committee, *General Comment No 25 (Art 25: Right to Participate in Public Life)*, UN Doc CCPR/C/21/Rev.1/Add.7 (27 August 1996) (available in Vietnamese and English)
 - iii) UN Human Rights Committee, *General Comment No 27, Freedom of Movement (article 12)*, UN Doc CCPR/C/21/Rev.1/Add.9 (1 November 1999) (available in Vietnamese and English)
- 10) Topic 6: Non-discrimination and Equality; Privacy; Marriage
- a) *Toonen v Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994) (available only in English)
 - b) General Comments
 - i) UN Human Rights Committee, *General Comment No 16: Article 17 (Right to privacy)* (1988), 32nd session (1988) (available in Vietnamese and English)
 - ii) UN Human Rights Committee, *General Comment No 19: Article 23 (The Family) Protection of the Family, the Right to Marriage and Equality of the Spouses* Adopted at the Thirty-ninth session of the Human Rights Committee, 7 July 1990 (available in Vietnamese and English)
- 11) Topic 7: Economic, social and cultural rights in comparison with civil and political rights: Equality and non-discrimination, labour rights including the right to work and the right to just and favourable conditions of work.
- a) UN Committee on Economic, Social and Cultural Rights, *General Comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)* E/C.12/GC/23, 27 April 2016 (available in Vietnamese and English)
- 12) Topic 8: Adequate Standard of Living; Social Security; Family Support, Education
- a) Preliminary Observations of the Special Rapporteur on the Right to Food, Hilal Elver, on her mission to Viet Nam 13-23 November 2017 at

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22439&LangID=E> (available only in English)

- b) Ben Saul, David Kinley, Jacqueline Mowbray, Article 11: The Right to an Adequate Standard of Living in The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials (OUP 2014) PP 861-976 (available only in English)
- c) General Comments:
 - i) UN Committee on Economic, Social and Cultural Rights General Comment No. 13 (Twenty-first session, 1999) The right to education (article 13 of the Covenant) E/C.12/1999/10, 8 December 1999 (available in Vietnamese and English)

13) Topic 9: The right to take part in cultural life; Enjoy the Benefits of Scientific Progress; Physical and Mental Health;

- a) UN Committee on Economic, Social and Cultural Rights, General Comment No. 21, Right of everyone to take part in cultural life (art. 15(1)(a) of ICESCR) (available in Vietnamese and English) E/C.12/GC/21, 21 December 2009 (available in Vietnamese and English)
- b) Summary of *Minister of Health v. Treatment Action Campaign* (No. 2) [2002] ZACC 15; 2002 (5) SA 721; 2002 (10) BCLR 1033 (available only in English).
- c) UN Committee on Economic, Social and Cultural Rights, *General Comment No.14* (2000) *The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)* UN Doc E/C.12/2000/4, 11 August 2000 (available in Vietnamese and English).

Reference materials:

UN Primary Materials (available in Vietnamese and English)

Note: Vietnamese translations of these treaties are contained in your textbooks (which are also on Google Drive). The treaties are also available in English from the Office of the High Commission for Human Rights website:

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>

- 1) *Convention on the Elimination of all Forms of Racial Discrimination* (1965) (“CERD”)
- 2) *Convention on the Elimination of all Forms of Discrimination against Women* (1979) (“CEDAW”)
- 3) *Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (1984) (“CAT”)
- 4) *Convention on the Rights of the Child* (1989) (“CRC”)
- 5) *Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (1990) (“CPMW”)
- 6) *Convention for the Protection of All Persons from Enforced Disappearance* (“CED”)
- 7) *Convention on the Rights of Persons with Disabilities* (2006) (“CRPD”)

UN Documents

Note: Vietnamese translations of General Comments No 1 to 34 of the Human Rights Committee, and No 1 to 24 of the Committee for Economic, Social and Cultural Rights, are available, and have been loaded onto the Google Drive.

- 1) UN Human Rights Committee, *General Comment No. 35, Article 9 (Liberty and security of person)*, UN Doc CCPR/C/GC/35 (16 December 2014) (available in English only)
- 2) UN Human Rights Committee, *General Comment No 34 Article 19: Freedoms of opinion and expression*, UN Doc CCPR/C/GC/34 (12 September 2011)
- 3) UN Human Rights Committee, *General Comment No 27, Freedom of Movement (article 12)*, UN Doc CCPR/C/21/Rev.1/Add.9 (1 November 1999)
- 4) UN Human Rights Committee, *General Comment No 25 (Art 25: Right to Participate in Public Life)*, UN Doc CCPR/C/21/Rev.1/Add.7 (27 August 1996)
- 5) UN Human Rights Committee, *General Comment No 22 (Art 18 Freedom on Thought Conscience and Religion)*, UN Doc CCPR/C/21/Rev.1/Add.4 (27 September 1993)
- 6) UN Human Rights Committee, *General Comment No 21:Article 10 (Humane treatment of persons deprived of their liberty)*, HRC 44th session, (1992)
- 7) UN Human Rights Committee, *General comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)*, HRC 44th session, (1992)
- 8) UN Human Rights Committee, *General Comment No 16: Article 17 (Right to privacy)* (1988), 32nd session (1988)
- 9) UN Human Rights Committee, *General Comment No 6: General comment No. 6: Article 6 (Right to life)*, 16th session (1982)
- 10) UN Committee on Economic, Social and Cultural Rights, *General Comment No.23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/C.12/GC/23 (27 April 2016)
- 11) UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19, The Right to Social Security (art.9)*, UN Doc E/C.12/GC/19 (4 February 2008)
- 12) UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14 (2000), The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc E/C.12/2000/4 (11 August 2000)
- 13) UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13 (Twenty-first session, 1999), The right to education (article 13 of the Covenant)*, UN Doc E/C.12/1999/10 (8 December 1999)
- 14) UN Committee on Economic, Social and Cultural Rights, *General Comment 5, Persons with Disabilities*, UN Doc E/1995/22 (1994)
- 15) Sustainable Development Goals [Knowledge Platform](#) and [Vietnam's Voluntary National Review 2018](#)
- 16) Report of the UN High Commissioner for Human Rights on implementation of economic, social and cultural rights, UN Doc E/2009/90 (8 June 2009)
- 17) UN Office of the High Commissioner on Human Rights and World Health Organization, [Fact Sheet no 31](#), The Right to Health, June 2008.

Vietnamese and English Language Books

- 1) Faculty of Law – Vietnam National University, *Human Rights Questions & Answers*, National University Press, Hanoi, 2012.
- 2) Gudmundur Alfredsson (Editor), *Universal Declaration of Human Rights 1948: The Common Goal of Humanity*, Faculty of Law – Vietnam National University translated, Labor and Social Publishing House, 2011.
- 3) Faculty of Law – Vietnam National University, *Introduction of International Instruments on Human Rights*, Labor and Social Publishing House, 2011.
- 4) Center for Human Rights Studies – Ho Chi Minh National Political Academy, *International Human Rights Instruments*, National Political Publishing House, 1998.
- 5) Vietnam Lawyers Association, *A collection of basic international legal instruments on human rights*, Judicial Publishing House, 2007.
- 6) Chu Hong Thanh, *Human rights and international human rights law*, National Political Publishing House, 1997.
- 7) Center for Human Rights Studies – Ho Chi Minh National Political Academy, *International Humanitarian Law – the Essentials*, Political Theory Publishing House, 2005.
- 8) Le Mai Anh (Editor), *International Law Textbook*, Hanoi Law University, People's Public Security Publishing House, 2006.
- 9) Wolfgang Benedek (Editor), *Introduction to Human Rights*, Justice Publishing House, Hanoi, 2008.
- 10) Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran (eds), *International Human Rights Law* (3rd ed, Oxford University Press, 2017)
- 11) Rhona KM Smith, *Textbook on International Human Rights* (8th ed, Oxford University Press, Oxford, 2017)
- 12) Adam McBeth, Justine Nolan and Simon Rice, *The International Law of Human Rights* (2nd ed, Oxford University Press, Melbourne, 2017)
- 13) Manisuli Ssenyonjo, *Economic, Social and Cultural Rights in International Law* (2nded, Hart Publishing, Oxford, 2016)
- 14) Ben Saul, David Kinley and Jaqueline Mowbray, *The International Covenant on Economic, Social and Cultural Rights: Cases, Materials and Commentary*, (Oxford University Press, 2014)
- 15) Sarah Joseph, Jenny Schultz, and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials and Commentary* (3rd edition, Oxford University Press, 2013)
- 16) Philip Alston and Ryan Goodman, *International Human Rights: The Successor to International Human Rights in Context* (Oxford University Press, Oxford, 2013)
- 17) Sarah Joseph and Adam McBeth, *Research Handbook on International Human Rights Law* (Edward Elgar, Cheltenham, 2010)
- 18) Olivier De Schutter, *International Human Rights Law: Cases, Materials and Commentary* (2nd Cambridge University Press, Leiden, 2014)
- 19) Catarina Krause and Martin Scheinin, *International Protection of Human Rights: A Textbook* (Abo Akademi University Institute for Human Rights, 2009)

Law Reports

- Butterworths Human Rights Cases (LexisNexis)
- European Human Rights Reports (Westlaw)
- International Human Rights Reports (print only)
- International Court of Justice decisions (Westlaw)
- Oxford Reports on International Human Rights Law

Human Rights Journals

- Australian Journal of Human Rights
- Business & Human Rights Journal
- Cambridge Law Journal
- Columbia Human Rights Law Review
- European Human Rights Law Review
- European Journal of International Law
- Harvard Human Rights Journal
- Health and Human Rights
- Human Rights Law Journal
- Human Rights Law Review
- Human Rights Quarterly
- International and Comparative Law Quarterly
- International Journal of Children's Rights
- Melbourne Journal of International Law
- Modern Law Review
- Netherlands Quarterly of Human Rights
- Oxford Journal of Legal Studies
- Public Law
- Women's Rights Law Reporter

Useful Web-sites

- Law Library, Monash University, library guide on 'International Law – Human Rights': <http://guides.lib.monash.edu/international-law/human-rights>
- Castan Centre for Human Rights Law: www.law.monash.edu.au/castancentre
- Australian Human Rights Commission: <https://www.humanrights.gov.au/>
- Attorney-General's Department: <http://www.ag.gov.au/RightsAndProtections/HumanRights/Pages/default.aspx>
- Victorian Equal Opportunity and Human Rights Commission: <http://www.equalopportunitycommission.vic.gov.au/home.asp>
- Australian Capital Territory Human Rights Office: <http://www.hro.act.gov.au/index.html>
- Human Rights Law Centre: <http://www.hrlrc.org.au/>
- Australian Human Rights Information Centre: www.austlii.edu.au/au/other/ahric/

- United Nations Office of the High Commission for Human Rights Website: www.unhcr.ch
- University of Minnesota Human Rights Library: www.umn.edu/humanrts/
- University of Nottingham Human Rights Centre: <http://www.nottingham.ac.uk/hrlc/index.aspx>
- Prof Anne Bayefsky website: www.bayefsky.com (note: this is an excellent site, but it is updated generally from 1999-2011, with only the jurisprudence section update post 2011)
- Electronic Information System for International Law (Human Rights) : http://www.eisil.org/index.php?sid=638216897&t=sub_pages&cat=185
- International Justice Resource Centre: <https://ijrcenter.org/#gsc.tab=0>

Useful Speeches

- Access addresses made by experts on human rights topics at the un *Audio-visual Library of International Law – Human Rights*: <http://legal.un.org/avl/ls/humanrights.html>
- Access lectures/presentations made by human rights experts for the Castan Centre at the Centre's Public Events and the Annual Conference: <https://www.youtube.com/user/CastanCentre/videos>