

Santa Clara Law

Costa Rica Summer Abroad Program

May 21 – June 8, 2018

Professor Francisco Rivera, fjrivera@scu.edu
Professor Claudia Josi, cjosi@scu.edu

Table of Contents

SYLLABUS	2
Venue and Times	2
Course Aims and Scope	2
Preparation, Participation and Evaluation	2
Required Reading Material	3
COURSE OUTLINE	4
Week One	4
Week Two	4
Week Three	4
READING ASSIGNMENTS	5
WEEK 1	5
May 21: Introduction to International Human Rights Law	5
May 22: UN Human Rights Treaties	5
May 23: UN Treaty-based and Charter-based Human Rights Mechanisms	6
May 24: The Inter-American Human Rights System (Part I)	7
WEEK 2	7
May 28: Intro to Intl. Criminal Law and Intl. Humanitarian Law	7
May 29: The Inter-American Human Rights System (Part II)	7
May 30: Hearing before Inter-American Court of Human Rights; Human Rights, Business and the Environment	8
May 31: Field Trip – Water Contamination and Labor Rights Violations in the Pineapple Industry	8
WEEK 3 (Sessions held at the Inter-American Court of Human Rights)	9
June 4: Equality and Non-Discrimination / The Relationship Between the Inter-American Court and State Jurisdictions / TBD	9
June 5: Rule of Law and Human Rights / Victim Reparations / TBD	9
June 6: Transitional Justice / Refugee Protection	10
June 7: Site visit to and guest lecture at the Center for Justice and International Law (CEJIL) / Role of NGOs / Review	11
June 8: Final Exam (9:00 – 12:00 at IA Institute)	11

SYLLABUS

Venue and Times

- The course runs from May 21st through June 8th. Classes are held Monday through Thursday, at the [Inter-American Institute of Human Rights](#), from 9:00 a.m. until 1:00 p.m. (The Institute is located [here](#)).
- On Thursday, May 31st, we will visit Costa Rican labor union plantation workers in the [Caribbean](#) region, as well as a rural community whose water has been contaminated by chemicals used in nearby pineapple plantations. (The community is located [here](#). Check out how close the plantations are to the river).
- Classes on June 4-6 will be held at the [Inter-American Court of Human Rights](#) from 9:00 a.m. to 1:00 p.m. (The Court is located [here](#)).
- On June 7th we will visit the [Center for Justice and International Law](#) (CEJIL) and learn about the work of this non-governmental human rights organization. (CEJIL is located a few blocks from the Inter-American Court).
- Free Spanish language classes are from 3-4pm, Monday through Thursday, at the [Costa Rican Language Academy](#) (CRLA). (CRLA is located [here](#)).
- The written examination will take place at the Inter-American Institute on Friday, June 8th, from 9-12pm.

Course Aims and Scope

- This course aims to provide participants with a basic understanding of the nature, scope, and practical enforcement of international human rights law, with a focus on the United Nations and the Inter-American human rights system of the Organization of American States. The course is divided into 12 sessions over a period of three weeks.
- The first two weeks will provide a general overview of international human rights law, including the U.N. human rights system, the Inter-American human rights system, as well International Criminal Law and International Humanitarian Law. Week 3 will cover more specialized topics in the Inter-American system and will be taught by attorneys from the Inter-American Court of Human Rights, local NGOs, and the United Nations High Commissioner for Refugees.

Preparation, Participation and Evaluation

- Class attendance is mandatory.
- Every student is expected to do the required reading for every class. This is a small class, with a heavy emphasis on class discussion and class participation. We recommend you also look at the suggested readings, although these are not required.
- The course is evaluated by way of a written examination (75%) and class attendance and participation (25%). The written examination will take place at the Inter-American Institute of Human Rights on Friday, June 8th, from 9 a.m. until 12:00 p.m. If you will need special accommodations, please let us know ASAP.

Required Reading Material

There is no required textbook. All the readings will be available online or will be sent via email. We recommend that you bring a laptop to class, as we will often ask you to look up online documents to discuss in class.

You can find all the relevant treaties and primary international law sources on the internet. We recommend that you also download the material to your computer before traveling to Costa Rica.

COURSE OUTLINE

Week One

- May 21: Introduction to Public International Law and to International Human Rights Law
May 22: UN Human Rights Treaties
May 23: UN Treaty-based and Charter-based Human Rights Mechanisms. UN exercise.
May 24: The Inter-American Human Rights System (Part I)

Week Two

- May 28: Introduction to International Criminal Law and International Humanitarian Law
May 29: The Inter-American Human Rights System (Part II). IAHR exercise.
May 30: Hearing before the Inter-American Court of Human Rights. **TBD**
Human Rights, Business and the Environment
May 31: Field Trip to Plantations in the Caribbean (Corporate Accountability, Labor Rights, and the Environment)

Week Three

- June 4: Guest lectures by staff attorneys from the Inter-American Court of Human Rights
- TBD
 - Equality and Non-Discrimination
 - The Relationship Between the Inter-American Court and State Jurisdictions
- June 5: Guest lectures by staff attorneys from the Inter-American Court of Human Rights
- TBD
 - Rule of Law, Independence of the Judiciary, and Human Rights
 - Victim Reparations
- June 6: Guest lecture by the Office of the United Nations High Commissioner for Refugees (UNHCR) and Introduction to Transitional Justice
- June 7: Site visit to and guest lecture at the Center for Justice and International Law (CEJIL) and Review
- June 8: Final Exam (9:00 – 12:00)

READING ASSIGNMENTS

WEEK 1

May 21: Introduction to International Human Rights Law

Required Readings

1. [Office of the UN High Commissioner for Human Rights: What are Human Rights?](#)
2. [Universal Declaration of Human Rights](#)
3. Ralph G. Steinhardt, Paul L. Hoffman, Christopher N. Camponovo, [International Human Rights Lawyering: Cases and Materials](#), Ch. 1.A. “The Idea of International Human Rights Law”, pp. 1-22. (in online portal and sent by email)
4. Moeckli et al., [International Human Rights Law](#), “Implementation of Human Rights Obligations”, pp. 130-132. (in online portal and sent by email)
5. [What is a Treaty?](#)
6. [Vienna Convention on the Law of Treaties](#), Preamble and Articles 2, 24, and 26-29.

Browse/skim the following web pages and human rights research guides:

1. [UN Office of the High Commissioner for Human Rights](#)
2. [Universal Human Rights Index](#) and [research guide](#).

May 22: UN Human Rights Treaties

Required Readings:

1. Henkin et al., [Human Rights](#), Ch. 5 “The Principal International Human Rights Agreements and Instruments”, pp. 214-223. (in online portal and sent by email)
2. [International Covenant on Civil and Political Rights](#) (ICCPR) (1976)

Browse/skim the following UN Human Rights Treaties:

1. [International Convention on the Elimination of all forms of Racial Discrimination](#) (CERD)
2. [International Covenant on Economic Social and Cultural Rights](#) (ICESCR)
3. [Convention on the Elimination of all forms of Discrimination against Women](#) (CEDAW)
4. [Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment](#) (CAT)
5. [Convention on the Rights of the Child](#)
6. [Convention on the Rights of Persons with Disabilities](#) (CRPD)
7. [International Convention on the Protection of the Rights of Migrant Workers and Members of their Families](#) (CMW)
8. [International Convention for the Protection of All Persons from Enforced Disappearance](#) (CED)

Suggested Readings on U.S. Failure to Ratify CEDAW and CRC:

1. [Why Won't the U.S. Ratify CEDAW?](#)
2. [Why won't the U.S. ratify the U.N. convention on children's rights?](#)
3. [CEDAW goes local in California – and beyond?](#)
4. [There's Only One Country That Hasn't Ratified the Convention on Children's Rights: US](#)

May 23: UN Treaty-based and Charter-based Human Rights Mechanisms
--

Required Readings:

1. [Protecting Your Rights – The UN Human Rights Treaty Bodies.](#)
2. Explore this page on [UN Human Rights Bodies.](#)
3. [UNESCO, How to file complaints on Human Rights Violations, A manual for individuals and NGOs.](#)
(Look at charts on pp. 174-176)
4. Risa Kaufman, Human Rights at Home Blog, [The U.S. on Review](#), May 11, 2015.
5. U.S. Dept. of State: [2016 Year-End Summary of the U.S. Universal Periodic Review Working Groups.](#)

Suggested reading (for UN exercise)

1. [Civil Society Space and the United Nations Human Rights System](#), pages 3-6 and 21-24.

Browse/skim the following websites

1. Skim this [video](#) of U.S. Universal Periodic Review by U.N. Human Rights Council on May 11, 2015.
2. [UN Human Rights Bodies](#)
 - a. [Human Rights Committee](#)
 - b. [Committee on the Elimination of Racial Discrimination](#)
 - c. [Committee on the Elimination of Discrimination Against Women](#)
 - d. [Committee on the Rights of Persons with Disabilities](#)
3. [UN Human Rights Council](#)
 - a. [Special Procedures:](#)
 - i. [Thematic Mandates](#)
 - ii. [Country Mandates](#)
 - iii. [Working Groups](#)
 - b. [Complaint Procedures](#)
 - c. [Universal Periodic Review](#)

Suggested Reading

1. [UN Human Rights Treaty Bodies – NGO Handbook](#) (2008) (read pp. 31-44, browse pp. 59-73)
2. Department of State - [U.S. Treaty Reports](#) (on enforcement of UN human rights treaties ratified by US)

May 24: The Inter-American Human Rights System (Part I)

Required Reading:

1. Bettinger-López – [The Inter-American Human Rights System – A Primer](#): 581-595 (14 pages)
2. Inter-American Commission on Human Rights, [Petition and Case System Informational Brochure](#) (2010), pp. 5-16 (11 pages).
3. [American Declaration on the Rights and Duties of Man](#)

Browse/skim the following:

1. [American Convention on Human Rights](#)
2. [Rules of Procedure of the Inter-American Commission on Human Rights](#)
3. Inter-American Commission on Human Rights, [Mandate and Functions](#).
4. Inter-American Commission on Human Rights, [Statistics](#).

Suggested Readings:

1. Cerna, Christina, *The Inter-American Commission on Human Rights...*, in Harris and Livingston, “The Inter-American System of Human Rights”, pp. 74-111. (found on Camino)
2. [Human Rights In The United States: Primer On Recommendations From The Inter-American Human Rights Commission](#) & The United Nations, *A Resource for Advocates Interested in Using the U.N. and Inter-American Human Rights Commission to Advance Social Justice*
3. [Other Basic Documents in the Inter-American HR System](#)

WEEK 2

May 28: Intro to Intl. Criminal Law and Intl. Humanitarian Law

Required Readings:

1. [Understanding the ICC](#): Chapters 1 and 3 (pp. 3-6 and 13-15)
2. The [Rome Statute](#): Articles 5 – 8bis
3. [What is International Humanitarian Law?](#)
4. International Humanitarian Law: [Questions 1-7](#) (pp. 3-17)

May 29: The Inter-American Human Rights System (Part II)

Required Reading:

1. Inter-American Court of Human Rights, [2017 Annual Report](#), pp. 16-28.

Suggested Reading:

2. Inter-American Court of Human Rights, [2017 Annual Report](#), *Developments in the Court’s Caselaw*, pp. 120-149.

May 30: Hearing before Inter-American Court of Human Rights; Human Rights, Business and the Environment

- Potential Site Visit to a Hearing before the Inter-American Court of Human Rights. **TBD**.

Human Rights, Business and the Environment

Required Readings:

1. [UN Guiding Principles on Human Rights](#)
 - a. Reading the commentary to each principle is optional.
2. [OECD Guidelines for Multinational Enterprises](#), Part I, Chapter 4 (on Human Rights), pp. 31-34.
3. Resolution 31/8, adopted by the U.N. Human Rights Council on March 23, 2016: [Human rights and the environment](#)
4. 2014 U.N. Human Rights Council Resolution on the Right to Safe Drinking Water, found [here](#).
5. AIDA, [Inter-American Court establishes historic precedent for the protection of human rights in the Americas](#), Feb. 8, 2018.

Suggested Readings:

1. IACHR 2015 Annual Report, Chapter IV.A, [Access to Water in the Americas – An Introduction to the Human Right to Water in the Inter-American System](#).

May 31: Field Trip – Water Contamination and Labor Rights Violations in the Pineapple Industry

Required Readings:

1. Tico Times, [If You Like Piña...Water Contamination Case Heads to Inter-American Commission on Human Rights](#), March 20, 2015.
2. Watch The Guardian, [Pineapple: Luxury Fruit at What Price?](#), up to minute 10:35.
3. If you understand Spanish, watch this [hearing on water and human rights in Costa Rica](#).
4. Dole Corporate Responsibility statements [here](#) and [here](#).

Suggested Reading:

1. There is a documentary called [Bananas!](#) that highlights the case [Tellez v. Dole: Nicaraguan Banana Workers Confront the U.S. Judicial System](#).
2. Report of the UN Special Rapporteur on the [Human Right to Safe Drinking Water](#) and Sanitation on her mission to the United States of America. A/HRC/18/33/Add.4 (August 2, 2011). (21 pages)
3. UN High Commissioner for Human Rights “Fact Sheet No. 35 – [The Right to Water](#)”. (50 pages)
4. This [article](#) discusses how Costa Rican authorities declared a moratorium on pineapple expansion last week after people marched on the streets in protest.
5. This [The Guardian article](#) is a 2010 exposé on pineapple production that mentions SITRAP (the labor union we will visit) and Grupo Acon (the local pineapple companies SITRAP is fighting again), as well as pineapple toxic water contamination.
6. This is a great [blog post](#) from a US recent grad that frames the issues well.

7. This [article](#) discusses how Costa Rican authorities announced last week that they will ban the herbicide Bromacil, which is believed to have contaminated groundwater sources of communities like the one we will visit.
8. These links ([here](#) and [here](#)) provide more info about the banana fair trade certification process of Rainforest Alliance.

WEEK 3 (Sessions held at the Inter-American Court of Human Rights)

June 4: Equality and Non-Discrimination / The Relationship Between the Inter-American Court and State Jurisdictions / TBD

9:00 – 9:30 Court Tour

9:30 – 10:30 Session 1: **TBD**

Coffee Break

10:45 – 11:45 Session 2: Equality and Non-Discrimination (*Edward Pérez*, IA Court)

Suggested reading:

- Moeckli, Daniel, “Equality and Non-Discrimination”, pp. 189-207. (in online portal and sent by email)

Coffee Break

12:00 – 1:00 Session 3: The Relationship Between the Inter-American Court and State Jurisdictions (*Pablo González*, IA Court)

Suggested readings:

- Pablo González-Domínguez, *The Doctrine of Conventionality Control, Between Uniformity and Legal Pluralism in the Inter-American Human Rights System* (2018), pp. 235-255. (in online portal and sent by email)
- Sergio García Ramírez, *The Relationship between Inter-American Jurisdiction and States (National Systems): Some Pertinent Questions* (2015), pp. 115-151. (in online portal and sent by email)

June 5: Rule of Law and Human Rights / Victim Reparations / **TBD**

9:00 – 10:10 Session 1: **TBD**

Coffee Break

10:25 – 11:35 Session 2: Rule of Law, Independence of the Judiciary, and Human Rights (*Alfredo Ortega*, IA Court)

Suggested readings:

- IA Commission on Human Rights: *Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion* (2015), Chapter 7, Conclusions and Recommendations. pp. 7-29. (in online portal and sent by email).
- IA Commission on Human Rights: *Situation of Human Rights in Honduras* (2015), pp. 7-43. (in online portal and sent by email).
- IA Commission on Human Rights: *Guarantees for the Independence of Justice Operators. Towards Strengthening Access to Justice and the Rule of Law in the Americas* (2013), pp. 5-24. (in online portal and sent by email).
- Stuart S. Yeh, *Why UN Inspections: Corruption, Accountability, and the Rule of Law*, 11 S.C. J. Int'l L. & Bus. 225 (2015), pp. 225-259. (in online portal and sent by email).

Coffee Break

11:50 – 1:00 Session 3: Victim Reparations (*Amelia Brenes*, IA Court)

Suggested reading:

- McKay, F. (2013) What Outcomes for Victims? In Shelton, D. (Ed.), *Oxford Handbook of International Human Rights Law*. Oxford: Oxford University Press. (in online portal and sent by email).

June 6: Transitional Justice / Refugee Protection
--

9:00 – 11:15 Transitional Justice (*Claudia Josi*, Santa Clara Univ. School of Law)

Required readings:

1. [What is Transitional Justice?](#) (2009)
2. [Swisspeace. A Conceptual Framework for Dealing with the Past](#) (2013)
(particularly pages 1-7)
3. [Truth Commissions](#) (2008)
4. [Truth Commissions II](#) (2008)

Suggested reading:

[Fujimori on trial](#)

Coffee Break

11:30 – 12:45 Refugee Protection (*TBD*, UN High Commissioner for Refugees)

Suggested reading:

- [The Refugee Law Reader](#), Sections I, II, and IV

12:45 – 1:00 Photos at Court

June 7: Site visit to and guest lecture at the Center for Justice and International Law (CEJIL) / Role of NGOs / Review

8:45 Meet at IA Institute and walk to CEJIL

9:00 – 10:45 Tour of CEJIL and Guest lecture on role of NGOs in the IAHRs (*TBD*, Center for Justice and International Law)
Suggested reading: CEJIL, [What we do](#)

10:45 – 11:00 Walk back to IA Institute

11:00 – 1:00 Review

June 8: Final Exam (9:00 – 12:00 at IA Institute)