

**PRINCETON UNIVERSITY
WOODROW WILSON SCHOOL**

Course: WWS 516b

**LEGACIES OF NUREMBERG:
UNIVERSAL HUMAN RIGHTS AND THE RE-CIVILISATION OF EUROPE**

SYLLABUS

1. INTRODUCTION

- 1.1 The aim of this class is to give students an understanding of the genesis and development of human rights culture in Europe following the end of the Second World War.
- 1.2 The course will be in two parts. The first part will deal with the historical, cultural legal and political context within which the European Convention on Human Rights is to be placed and understood. The second part will be concerned with the looking at some of the substantive provisions of the European Convention on Human Rights, as interpreted in the case law of the European Court of Human Rights over the past 50 years.
- 1.3 The class has, of course, an unspoken or implicit comparative element. The insights and knowledge gained from the class as to what has been happening in Europe will, it is hoped, complement and deepen and perhaps transform the students' understanding of how and why the US constitution (and the jurisprudence of the US Supreme Court) has developed as it has to date, and how it may yet develop in the future.

2. THE SUBSTANCE OF THE COURSE

3.1 There will be a series of 12 seminars which will deal with the following topics:

Part I: the ECHR in context

- (1) Seminar 1 – The Nuremberg laws and the Nazi legal system
- (2) Seminar 2 – The Nuremberg War Crimes Tribunal
- (3) Seminar 3: Declarations of Universal Fundamental Human Rights
- (4) Seminar 4: The Council of Europe and the European Convention on Human Rights
- (5) Seminar 5: The European Union and fundamental human rights
- (6) Seminar 6: The Catholic Church and fundamental human rights talk

Part II: some content of ECHR

- (7) Seminar 7: Article 2 ECHR and the right to life
- (8) Seminar 8: Article 3 ECHR and the prohibition against torture and inhuman or degrading treatment
- (9) Seminar 9: Article 8 ECHR on right to respect for private and family life and Article 12 ECHR on the right to marry
- (10) Seminar 10: Article 9 on freedom of thought conscience and religion and Article 10 ECHR on freedom of expression
- (11) Seminar 11: Article 3 Protocol 1 ECHR: the right to vote and political participation in a democratic society
- (12) Seminar 12: Article 14 ECHR prohibiting discrimination and Article 17 ECHR prohibiting the abuse of rights

3. THE FORM OF THE CLASS

3.1 The class will be conducted in a seminar format and is a graduate student course. The style of teaching will be very much a collaborative one between the course leader and the student attendees and it is hoped that the students will learn as much from each other as from the course leader.

3.2 The class will meet once a week for a 3 hour session on the topic assigned for that week. The standard format would be one in which the students on the course would, before each seminar, all be expected to have read:

- first the handout prepared by the course leader which seeks to give a general overview of the area under discussion; and
- secondly, the “required texts” set by the course leader (usually a combination of book chapters, journal articles and cases).

3.3 Two of students will then present short papers each giving an analysis of the themes arising from such of the articles or common texts which has been set for common discussion that week. These student papers, based on independent research and a close reading and analysis of the texts set for each seminar, will form the focus of discussions within the class. The format then becomes one of general discussion among the students, course leader (and/or any guest lecturer). Depending on the size of the class each student should end up producing either one or two short papers in the course of the seminar series

3.4 The seminar for that week will be concluded by the course leader summarizing the main points raised in the discussion, drawing the various themes together and highlighting the connection with the themes and topics to be explored in the following week. There will be a brief discussion, too, at this point on the selection and prioritising of the readings for the next week.

3.5 The short student papers which have been presented and discussed in class can, perhaps, become the seed or first draft for their final course paper to be submitted to the course leader by the student at the end of the course.

- 3.6 The student is not, however, limited to submitting a final course paper which is based on the themes addressed in short papers presented by him or her to the seminar. It may well be that the discussion on a topic which has not been presented by that student in class may cause him or her to wish to prepare the final course paper on a topic other than that presented by the student to the seminar.
- 3.7 All students must read *as a minimum* the “required reading” in preparation for each seminar every week. The students who are presenting the short papers for discussion will be expected also to read more widely, to include such texts within the list of “recommended readings” which are relevant to the particular topic to be presented by them. Student not presenting papers that week are of course welcome also to read among the recommended texts if so inclined.
- 3.8 Understand the idea that different kinds of texts will require be read differently. Some readings are extracts from textbooks. Other readings are from transcripts of court proceedings. Others still are Treaty texts, and yet others are court decisions, both UK and European. These different texts serve different functions and are addressed to different audiences. Students should be aware that different techniques of reading will be required of these in order to best understand them. One of the issues which will be discussed in class at the stage of discussion of the following week’s readings is also that of *how* to read those various kinds of texts set, in particular the purely legal texts whether court transcripts, legislative provisions or decided cases.
- 3.9 At the outset of each week’s seminar the course leader (or specially invited a guest lecturer) will very briefly introduce the topics to be discussed that week. The course leader’s seminar handout outlines are intended to stand in lieu of a formal lecture by the course leader on the topic. These outlines will provide the necessary background, however, in which to situate the papers to be presented by students.
- 3.10 Taking account of the short paper as originally presented to the seminar, the nature of the individual’s participation in the whole seminar series, and the final course paper submitted, the student’s overall performance will be assessed and a grade awarded.

4. MATERIALS FOR THE COURSE

A. Required books

1. Cases and Materials on The European Convention on Human Rights (Paperback)

Author: Alastair Mowbray

Publisher: Oxford University Press, USA; 2nd edition (August 17, 2007)

ISBN-10: 0199206740

ISBN-13: 978-0199206742

2. Jacobs and White: The European Convention on Human Rights (Paperback)

by Clare Ovey (Author), Robin White (Author)

Publisher: Oxford University Press, USA; 4th edition (June 6, 2006)

ISBN-10: 0199288100

ISBN-13: 978-0199288106

4.1 The book chapters (other than from the above two text books which should be purchased by each student), journal articles, cases and Treaties referred to in the reading lists should all be through Blackboard and the Firestone library's Electronic Reserve (E-Reserve) system as PDF files.

A word on sources

4.2 As you are carrying out your own independent research in preparing your short papers and final papers, several points are worth noting:

- (1) The European Convention on Human Rights is expressly treated by the European Court of Human Rights as a "living instrument", which is to say the interpretation of its terms will change with changing general social mores in Europe. This means that older a case is the less likely it is to be representative of how the Court will interpret and apply a specific Convention provision in the present day. Accordingly any proper understanding of how the Convention operates has to be based on a contemporary appreciation of current cases. Books on the Convention case law will tend to go out of date fairly rapidly as the Court continues with its on-going contextual interpretation. There is no European equivalent to the Federalist papers.

- (2) What this means is that a proper understanding of the Convention requires one to be abreast of current case-law. The case law is readily available from the Strasbourg Court's web-site: <http://cmiskp.echr.coe.int/tkp197/search.asp?skin=hudoc-en>. These decisions are unannotated and without rubrics. It should also be noted that the Council of Europe has only two official languages – English and French – so some of the more recent relevant case law is available from the Court in French only (there being something of a backlog in the translation process).
- (3) Annotated and edited English language reported versions of the cases are published in the UK unofficial series *European Human Rights Reports* (EHRR) and these are available online from Westlaw (UK).