Course Syllabus

LAW303G

Human Rights

Number of ECTS credits: 6

Time and Place: Tuesdays, 8.30 to 10.00; Thursdays, 8:30-10:00; Pleinlaan, VeCo3

Contact Details for Professor

Name of Professor: Crosby, Scott

E-mail: scott.crosby@eurojura.be

Office hours: 10.00 – 11.00 Thursdays, or by appointment.
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Course Prerequisites (if any)

Law 101G or with written permission of the professor

Course Description

The course introduces human rights law generally and European human rights law, in particular.

The major legal instruments of human rights law and relevant case law are explained and the major issues, legal, political and ethical are discussed.

The duties of non-state actors in terms of human rights are explained.

The course demonstrates that far from being esoteric and remote human rights are part of daily life and are designed to promote social harmony.

In greater detail the course will cover the following:

Introduction: Historical Background

Human Rights:

- From grand principles to effective, enforceable law via the Universal Declaration of Human Rights

The Constitutional and Geopolitical Significance of Enforceable Human Rights in Europe

The Fascist, Nazi and Soviet theories of the state-individual relationship

The reason for the ineffectiveness of rights of man proclamations or bills of rights – sovereign immunity

Churchill’s “Enthronement of Man”

Lauterpacht’s proposition that the object of all law is man, i.e. the individual

The United Nations Charter

The Universal Declaration of the Human Rights

The Council of Europe (London Treaty, 1949)

European Convention on Human Rights and Fundamental Freedoms

Result: Rule of Law became enforceable by the individual against the state, enforcement was collectively ensured by all Convention states, democracy was underpinned, foundations for EU were laid (quotations from contemporary documents and Copenhagen Criteria)
Significance of enumerative, as distinct from declaratory, method (comparison of ECHR with Universal Declaration)

Expansion by subsequent instruments, e.g. protocols to the ECHR, the European Social Charter, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)

The right of individual petition, reluctance to accept the jurisdiction of the European Court of Human Rights, the compromise in the form of the European Human Rights Commission as Gatekeeper, the situation today, especially reference to the UK.

Importance of human rights for the post-war international legal order, and particular for the EU.

**Core Convention Rights and the Concept of Dignity**

**Core Rights**

Core in the sense that they may not be suspended or be derogated from under Article 15 ECHR by reference to a state of emergency “threatening the life of the nation”

- Right to life
- Prohibition of torture or of inhuman or degrading treatment
- Prohibition of slavery and servitude
- No punishment without crime (*nullum crimen*)

These core rights all stem from a higher or overarching concept, namely dignity

No human right has any sense if human dignity is not its ultimate object

Not mentioned in ECHR, but subsequently incorporated into ECHR law

Prime position in EU Charter

Discussion starts with dignity

**Dignity**

Lauterpacht’s definition: “sanctity of the human personality”

Illustration of the concept in action under the German constitution

All HR and related instruments identifying dignity

Content of concept

- No instrumentalisation (slave labour)
- Human being not to be exploited for spare body parts
- Dignity of dying person
- Decent work – European Social Charter and ICESCR and ILO Conventions and Recommendations
- Decent lodging – ICESCR
- Decent society – idem

Case law under ECHR and EU law

Implementation difficulties (ILVA Steelworks, Taranto, Italy); Refugee crisis

**Torture and related HR abuses**

Torture, apart from the pain and anguish, is an absolute negation of human dignity - indeed that is its purpose

Brief excursion into literature (Asturias, Murakami et. al.)

Definitions, including UN Torture Convention

Absolute nature of prohibition

Argument (invalid) of necessity – Gäfgen case

Examples of torture

Inhuman and degrading treatment (as distinct from torture)

Examples

Extradition and EAW case law: prison conditions, no fair trial, death penalty and death row, persecution

ECHR *MSS v Belgium*, 21 January 2011

Problem of Detention centres

**Life**

*“Le roi des droits”*

Supreme value of life

Genocide Convention

No arbitrary deprivation – example of execution (state murder) for reason of state with no further explanation required

Death penalty – absolute ban (Protocols 3 and 6)

Victor Hugo

Abortion & life (comparison between ECHR and the American Convention), Article 8 ECHR
Euthanasia & life (no right to death under Article 2/dignity) – quid?

Positive duty on state to eliminate life threatening situations, e.g. transport, environment, terrorism

EU law – Seveso Directives

Case law

Excursion into right to safety – Montreal Declaration – examples

Refugees

Duties of states in respect of corporations – excursion into corporate norms

Terrorism – “when the cannons roar (…)”

**Slavery and servitude**

Dignity

Case law

Trafficking

Examples of modern slavery

**Nullem crimen**

Rule of law

No retroactivity (in criminal, but not administrative, law) – Berlusconi case

Lex mitior

Judicial interpretation

Nuremberg clause/Eichmann case [Article 7(2) ECHR]

Scottish treatment (discontinued) of homosexual acts

**Political Rights**

ICCPR

Self-determination

Secession (*Quebec* case, Canadian Supreme Court)

Annexation or repatriation – Crimea

Protocol 1, Article 3 – elections (*Berlusconi*)
Prisoners’ rights
Minorities + description of problems inter-war protection clauses

**Liberty and Security**

No arbitrary detention
Article 5 and Protocol N° 4 ECHR

**Private life**

Warrants/proportionality
Extends to professional premises
Family ethical problems

**Freedom of religion and assembly**

Illustrate by headscarves & processions

**Freedom of Expression**

Broadness of principle – difficulty of TV licensing
Advertising or commercial speech, comparison between ECtHR and US positions
Narrowness of exceptions: necessary in a democratic society
Leading cases
The right to speak (Omega TV/Crimea)

**Fair trial**

*Introduction*

Koestler – *Darkness at Noon* (no need for trial)
Solzhenitsyn – *The First Circle* (no presumption of innocence)
Harper Lee – *To Kill a Mocking Bird* (no fair trial)
Hugo – *Notre Dame de Paris* (fruit from the poisoned tree, i.e. unreliability of intelligence gained by torture)
Elements – Criminal Aspect

What is criminal? Reference to Engel criteria and the issue of misleading classification (labelling)
Mutation from civil or administrative into criminal – sanctions law
Anti-trust law – Menarini Diagnostics srl v Italy (ECtHR 2011) + KME Germany and Chalkor
CJEU judgments (full jurisdiction)
Fair and impartial tribunal (e.g. Pinochet, UK House of Lords)
Public hearing
Reasonable time
Public pronouncement of judgement
Presumption of innocence (including Article 10(2) – limits on freedom of expression to maintain
authority and impartiality of judiciary)
Meaning of Charge
Right to representation – examples of defence by counsel being treated as part of the alleged
criminal act, and counsel being accused as an accomplice
Defence rights and expansion thereof by the Court (e.g. Salduz and reference to Article 3)
Reasonable doubt – Knox case
EU and defence rights

Elements – Civil Aspects

Why fair trial rules and principles are equally important in civil and administrative disputes
Rule of Law
Illustrative cases

Right to Property

Definition of property
Discussion of the exceptions
Areas of dispute: expropriation, confiscation, asset freezing (smart sanctions), control of use,
planning permissions/restrictions
Cases
Course Learning Objectives (CLO)

By the end of this course, students should be able to:

- Demonstrate knowledge of terminology and concepts of international and European Human Rights Law.
- Show understanding of the international system and the European integration process
- Demonstrate a working knowledge of international law-making by means of treaties, state practice and decisions of international organizations and judgments of supra-national courts
- Analyse independently the interplay between international and European Law
- Display critical attitudes, which are necessary for “life-long learning” and sensitivity to the importance of legal and ethical considerations and the ability to confront dominant, popular opinions with constructive criticism

**In terms of knowledge**

Demonstrate a solid understanding of substantive of human rights law in Europe, the importance of human rights for the rule of law and democracy, the place of human rights in the world order; appreciate that respect for human rights is an obligation, not only for states, but for every organ of society, from the individual to the multi-national corporation

**In terms of skills**

Interpret any law and any governmental policy in terms of its human dimension, i.e. in terms of its ultimate beneficiary. The question is: who, or what group does a given rule or policy most impact, is the rule in the general interest or only in a sectoral interest?

**In terms of attitudes, students should develop in this course:**

An understanding of the universal and inalienable nature of human rights law, of the need for collective enforcement internationally, and of the limits to the power of the state.

Create awareness of the role the individual needs to play in respect of human rights at all times.
## Link between major objectives, course objectives, teaching methods, assignments and feedback (BA International and European Law)

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<th>Major Learning Objectives</th>
<th>Course Learning objectives addressing the Major Objectives (testable learning objectives)</th>
<th>Methods used to Teach Course Objectives</th>
<th>Methods (and numbers/types of assignments) used to test these learning objectives</th>
<th>Type, Timing and Instances of Feedback given to Student</th>
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<tr>
<td>acquire knowledge of terminology and concepts of international and European Law.</td>
<td>demonstrate, prove attainment of the requisite standard by means of two written exams and a research paper</td>
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<td>mid-term and final exam and one research paper; class discussion and debate</td>
<td>Results of exams and research paper with oral explanation; feedback in class and in office meetings</td>
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<tr>
<td>gain an understanding of the international system and the European integration process</td>
<td>the same</td>
<td>weekly classes, comprising for example: introductory presentation, debate and discussion of particular issues, including case law and articles, question sessions, student presentations</td>
<td></td>
<td>Results of exams and research paper with oral explanation; feedback in class and in office meetings</td>
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<tr>
<td>develop a working knowledge of international law-making by means of treaties, state practice and decisions of international organizations and conferences</td>
<td>the same</td>
<td>Weekly classes comprising for example: introductory presentation, debate and discussion of particular issues, including case law and articles, question sessions, student presentations</td>
<td>Mid-term and final exam and one research paper; class discussion and debate</td>
<td>Results of exams and research paper with oral explanation; feedback in class and in office meetings</td>
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<tr>
<td>become familiar with the European institutions and the decision-making processes</td>
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<td>develop the ability for independent analysis of the interplay between international and European Law</td>
<td>The same</td>
<td>Weekly classes comprising for example: introductory presentation, debate and discussion of particular issues, including case law and articles, question sessions, student presentations</td>
<td>Midterm and final exam and one research paper; class discussion and debate</td>
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<td>enhance the student’s ability to use the appropriate research methods and tools in the framework of independent research projects</td>
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<td>provide students with the knowledge of and practice with electronic information sources on international and European law</td>
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<td>develop the ability to communicate in an effective way the acquired knowledge and the outcome of research projects, both in written and oral form</td>
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<td>develop the ability for group work is incorporated into the structure of in-class presentations and case studies</td>
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<td>further develop skills in intercultural communication</td>
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<td>develop English language skills, both written and oral</td>
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<td>stimulate critical attitudes, which are necessary for “life-long learning” and sensitivity to the importance of legal and ethical considerations and the ability to confront dominant, popular opinions with constructive criticism</td>
<td>The same</td>
<td>Weekly classes comprising for example: introductory presentation, debate and discussion of particular issues, including case law and articles, question sessions, student presentations</td>
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<td>Results of exams and research paper with oral explanation; feedback in class and in office meetings</td>
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<tr>
<td>stimulate an awareness of the normative dimension of international and European legal policies and of related ethical, social and operational problems and dilemmas.</td>
<td>The same</td>
<td>comprising for example: introductory presentation, debate and discussion of particular issues, including case law and articles, question sessions, student presentations</td>
<td>Midterm and final exam and one research paper; class discussion and debate</td>
<td>Results of exams and research paper with oral explanation; feedback in class and in office meetings</td>
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**Main Course Materials**

The materials, additional to those listed here, that are used in each session will be made known before the session begins. Each session is divided into two parts, the Tuesday part and the Thursday part, except for Tuesday 20 November, which is a holiday. That session will be a half session, taking place on Thursday 22 November.

The material comprises:

- European and UN human rights instruments,
- case reports
- case notes
- quotations from selected texts

**Textbook:**

**Introductory Books**


*An International Bill of the Rights of Man*, Lauterpacht, Hersch, OUP, 2013

**Important learning source**

One of the best learning sources is produced by the European Court of Human Rights itself. This comprises the ECHR Human Rights Handbook series and the ECHR Guides on individual provisions of the Convention, both of which are downloadable free of charge.

These documents will be used along with the textbook.

**Highly Recommended Reference Books:**


De Hert & Henrard (eds), *Bronnen internationale bescherming van de rechten van de mens*, Intersentia, 2010 (in Dutch)


**Selected Fiction and Non-Fiction Literature of Human Rights Relevance**

Arendt, Hannah, *The Origins of Totalitarianism*

Arendt, Hannah, *Eichmann in Jerusalem*

Asturias, Miguel Ángel, *El Señor Presidente*

Beecher-Stowe, Harriet, *Uncle Tom’s Cabin*

Bingham, Tom, *The Rule of Law*

Böll, Heinrich, *Die Verlorene Ehre der Katherina Blum* (The Lost Honour of Katherina Blum)

Coetzee, J. M., *Waiting for the Barbarians*

Hochschild, Adam, *King Leopold’s Ghost*

Hugo, Victor, *Notre Dame de Paris*


Jeffreys, Diarmuid, *Hell’s Cartel (IG Farben and (…) Hitler’s War Machine)*
Kafka, Franz, *Der Prozess* (The Trial)
Koestler, Arthur, *Darkness at Noon*
Harper, Lee, *To Kill a Mocking Bird*
Murakami, Haruki, *The Wind Up Bird Chronicle*
Paine, Thomas, *Rights of Man*
Sands, Philippe, *East West Street*
Seierstad, Åsne, *One of Us* (the Breivik Massacre)
Solzhenitsyn, Aleksandr, *The First Circle*
Von Schirach, Ferdinand, *Terror*
Von Schirach, Ferdinand, *Der Fall Collini* (The Collini Case)
Weiler, Joseph H. H., *The Constitution of Europe*

**Active Learning and Intensive ‘Reading around the Subject’: Additional Sources, Recommended Journals and Websites:**

Learning should be an active and self-motivated experience. Students who passively listen to lectures, copy someone else’s notes, and limit their readings to required chapters are unlikely to develop their critical thinking and expand their personal knowledge system. At the exam, these students often fail to demonstrate a critical approach. Students are strongly recommended to have an updated understanding of developments related to this course and related to their wider Major. Active and engaged learning will turn out to be enriching to the overall course and class discussions. Students are invited to deepen their understanding of both theoretical and current issues from a variety of sources. Please find a list of suggestions compassing the entire course below. You are encouraged to read and browse in the leading journals of your discipline.

**Journals of Particular Relevance:**

- Human Rights Quarterly
- Human Rights Review
- New Journal of European Criminal Law (for the criminal law aspects of human rights)
- Nordic Law Journal
- Netherlands Quarterly of Human Rights

**Websites of Interest:**

- Journal Rankings: [http://lawlib.wlu.edu](http://lawlib.wlu.edu)
- European Court of Justice: [https://curia.europa.eu](https://curia.europa.eu)
- European Court of Human Rights: [http://www.echr.coe.int](http://www.echr.coe.int)

**Work Load Calculation for this Course:**

This course counts for 6 ECTS, which translates into 150 hours (approximately) for the entire semester for this course. This means that you are expected to spend roughly 10 hours per week on this course. This includes 3 hours of lectures or seminars per week and 7 hours ‘out of class’ time spent on preparatory readings, studying time for exams as well as time spent on preparing your written assignment. Here is an estimated breakdown of your work-load for this course.

**Time spent in class:** 3 hours per week: 45 hours

Time allocated for course readings: 60 hours

Time allocated for preparing Written Assignment: 20 hours

Time allocated for preparing/revising for written Mid-term Exam: 10 hours

Time allocated preparing/revising for written Final Exam: 15 hours

Total hours for this Course: 150 hours
Course Assessment: Assignments Overview

The students will be evaluated on the basis of their performance in the following assignments:

- Essay 40%
- Midterm examination 25%
- Final examination 35%
- TOTAL 100%

Grading Scale of Vesalius College

Vesalius College grading policy follows the American system of letter grades, which correspond to a point scale from 0 – 100. **All assignments (including exams) must be graded on the scale of 0-100.** To comply with the Flemish Educational norms, professors should on request also provide the conversion of the grade on the Flemish scale of 0-20. The conversion table below outlines the grade equivalents.

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<td>85-100</td>
<td>17.0-20.0</td>
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<td>A-</td>
<td>81-84</td>
<td>16.1-16.9</td>
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<tr>
<td>B+</td>
<td>77-80</td>
<td>15.3-16.0</td>
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<td>B</td>
<td>73-76</td>
<td>14.5-15.2</td>
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<td>B-</td>
<td>69-72</td>
<td>13.7-14.4</td>
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<tr>
<td>C+</td>
<td>66-68</td>
<td>13.1-13.6</td>
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<tr>
<td>C</td>
<td>62-65</td>
<td>12.3-13.0</td>
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<td>C-</td>
<td>58-61</td>
<td>11.5-12.2</td>
</tr>
<tr>
<td>D+</td>
<td>54-57</td>
<td>10.7-11.4</td>
</tr>
<tr>
<td>Letter grade</td>
<td>Scale of 100 (VeCo Grading Scale)</td>
<td>Scale of 20 (Flemish System)</td>
</tr>
<tr>
<td>-------------</td>
<td>----------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>D</td>
<td>50-53</td>
<td>10.0-10.6</td>
</tr>
<tr>
<td>F</td>
<td>0-49</td>
<td>0-9.9</td>
</tr>
</tbody>
</table>

**Description of Activities, Grading Criteria and Deadlines:**

**Essay**

Deadline: to be announced

A paper of 2,500 words on a topic covered by the syllabus (course content). The topic is to be chosen by the student in consultation with the professor. The title should be chosen and agreed by 12 October.

The paper should outline the problem, discuss solutions in the light of case law and academic articles, and draw a conclusion. Original thought is expected.

The paper applies the following course objectives:

Stimulate critical attitudes, which are necessary for “life-long learning” and sensitivity to the importance of legal and ethical considerations and the ability to confront dominant, popular opinions with constructive criticism;

Develop the ability for independent analysis of the interplay between international and European Law;

Gain an understanding of the international system and the European integration process;

Stimulate an awareness of the normative dimension of international and European legal policies and of related ethical, social and operational problems and dilemmas.

**Mid-Term Exam (written)**

Exam of 90 minutes, comprising 3 questions drawn from the course to that point, designed to test the assimilation of knowledge and the student’s ability to apply it under time pressure.

**Final Written Exam (written)**

Exam of 120 minutes comprising 4 questions drawn from the whole course designed to test the assimilation of knowledge and the student’s ability to apply in under time pressure.
Rubrics: Transparent Grading Criteria For Each Assignment

The following criteria will be applied in assessing your written work:

**Rubrics for Written Assignment 1**

<table>
<thead>
<tr>
<th>Structure of essay, including word count</th>
<th>An introduction and conclusion; word count</th>
<th>Essay is well structured and coherent</th>
<th>A short ad rem intro (preferably a history), a good structure, use of separate paragraphs per topic, and conclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total: /6</td>
<td>/2</td>
<td>/2</td>
<td>/2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Critical analysis of the major elements</th>
<th>Major elements are covered</th>
<th>Good legal reasoning in a logical way</th>
<th>Systematic analysis of all major elements and use of personal comments or critical questions. Essay is persuasive in its reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total: /8</td>
<td>/2</td>
<td>/2</td>
<td>/4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Legal sources and legal terminology, including footnotes</th>
<th>Good use of scholarly articles</th>
<th>Appropriate use of legal terminology; an analytical-legal style; correct use of footnotes</th>
<th>All major sources are consulted with good legal terminology overall. The topic is placed in the broader context of international law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total: /6</td>
<td>/2</td>
<td>/2</td>
<td>/2</td>
</tr>
</tbody>
</table>

**TOTAL /20**

On a scale of 100:

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**Rubrics for Written Assignment 2**

<table>
<thead>
<tr>
<th>Structure of essay, including word count</th>
<th>An introduction and conclusion; word count</th>
<th>Essay is well structured and coherent</th>
<th>A short ad rem intro (preferably a history), a good structure, use of separate paragraphs per topic, and conclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total: /6</td>
<td>/2</td>
<td>/2</td>
<td>/2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Critical analysis of the major elements</th>
<th>Major elements are covered</th>
<th>Good legal reasoning in a logical way</th>
<th>Systematic analysis of all major elements and use of personal comments or critical questions. Essay is persuasive in its reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total: /8</td>
<td>/2</td>
<td>/2</td>
<td>/4</td>
</tr>
</tbody>
</table>
Rubric for grading the examination answers:

<table>
<thead>
<tr>
<th>Rubric</th>
<th>A (17.0-20.0)</th>
<th>B-A (14.5-16.9)</th>
<th>C-B (12.3-14.5)</th>
<th>D-C (10.0-12.2)</th>
<th>F (0-9.9)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accuracy and completeness</td>
<td>The answer correctly addresses the question, giving all the key components required.</td>
<td>The answer adequately addresses the question, but there are some omissions or errors in providing the key components of the answer.</td>
<td>The answer sufficiently addresses the question, but has substantial errors and/or omissions in some of the key components.</td>
<td>The answer is incomplete and fails to address the question. Several key components are missing.</td>
<td>The answer is left in blank or altogether fails to address the question.</td>
</tr>
<tr>
<td>Formulation of answer</td>
<td>The answer is well-structured, formulated in a clear language, and is to the point without irrelevant digressions.</td>
<td>Overall, the answer accurately addresses the question. Some flaws in the formulation of the answer and/or unnecessary and irrelevant digressions.</td>
<td>The answer is formulated in an imprecise or incoherent way and/or there are several unnecessary and irrelevant digressions.</td>
<td>The answer is formulated in a very incoherent way and is difficult to understand, and/or there are many unnecessary and irrelevant digressions.</td>
<td>The answer is formulated in an unintelligible way.</td>
</tr>
</tbody>
</table>

Vesalius College Attendance Policy

As the College is committed to providing students with high-quality classes and ample opportunity for teacher-student interaction, it is imperative that students regularly attend class. As such, Vesalius College has a strict attendance policy.

Participation in class meetings is mandatory, except in case of a medical emergency (e.g. sickness). Students will need to provide evidence for missing class (doctor’s note). If evidence is provided, the missed class is considered as an excused class. If no evidence is provided immediately before or after the class, the missed class is counted as an absence.

Participation implies that students are on time: as a general rule, the College advises that students should be punctual in this regard, but it is up to the professor to decide whether to count late arrivals as absences, or not.
If students are absent for too many classes for a single course, they receive a penalty on their overall grade for that course.

- If students are absent for five 1.5 hour class sessions of a course, they receive a penalty of 5 points on their overall grade (out of 100) for that course.
- For each additional absence (over five) for a 1.5 hour class session, an additional penalty of 1 point is applied to the reduced course grade.

Example 1: at the end of the semester, a student has a course grade of 75/100. Over the course of the semester, s/he missed 4 unexcused sessions of 1.5 hours for the course. No penalty is applied.

Example 2: at the end of the semester, a student has an overall grade of 75/100. Over the course of the semester, s/he missed 5 unexcused sessions of 1.5 hours for the course. S/he receives a penalty of 5 points (out of a hundred), and his/her final course grade is 70/100.

Example 3: at the end of the semester, a student has an overall grade of 75/100. Over the course of the semester, s/he missed 7 sessions of 1.5 hours for the course. S/He receives a penalty of 7 points, and his/her final course grade is 68/100.

Additional Course Policies

Late papers will not be accepted unless there are serious legitimate reasons. Provision of a signed medical note is required, and notice must be given prior to the deadline.

Mobile phones must be switched off.

Computers may be used for note-taking, but must be used off-line.

Academic Honesty Statement

Academic dishonesty is NOT tolerated in this course.

Academic honesty is not only an ethical issue but also the foundation of scholarship. Cheating and plagiarism are therefore serious breaches of academic integrity.

Following the College policy, cheating and plagiarism cases will be communicated in writing to the Associate Dean and submitted to the Student Conduct Committee for disciplinary action.

If you refer to someone else’s work, appropriate references and citations must be provided. Grammar, spelling and punctuation count, so use the tools necessary to correct before handing in assignments.

Please consult the Section “Avoiding Plagiarism” in the College Catalogue for further guidance.

Plagiarism includes “self plagiarism”. This means that where the student makes use in a written assignment of their own previous written work, it must, be treated in the same way as the writing of another person, i.e. it must be properly cited and any passages used in the later text must appear as quotations.
Turnitin

All written assignments that graded and count for more than 10% towards the final course grade need to be submitted via the anti-plagiarism software Turnitin. You will receive from your professor a unique password and access code for your Class.

Course Schedule (Overview)

Note:

The course focuses primarily on the ECHR. It does not deal with the ECHR provisions in numerical order. It follows a substantive logic. Thus, dignity leads to torture and related violations of the human person (Article 3), which leads to unlawful detention (Article 5), which leads to fair trial provisions (Article 6) and to no crime without law (Article 7).

Only after that is the right to life examined (Article 2), which includes positive obligations as to the environment and safety as well as the moral and ethical questions on capital punishment, abortion and assisted suicide, which touch upon human dignity.

Self-determination then follows next not least because it is highly topical and because it introduces the concept of group or collective rights, the dignity of the group, which is a forerunner for freedom of religion, association and assembly.

The right to the enjoyment of property stands on its own, but is linked to fair trial rights, degrading treatment, dignity, the right to life, including private and family life. This leaves Article 13, 14 and 15, which can be dealt with shortly, so they are left to the half session of week commencing 19 November. The course finishes with the application of human rights obligations to non-state actors, which is a development of the future.

<table>
<thead>
<tr>
<th>Week 1</th>
<th>28/8 – 30/8/2018</th>
<th>Session 1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The concept</td>
<td>Practical meaning</td>
</tr>
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<td></td>
<td>Man over sovereign</td>
<td></td>
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<td></td>
<td>The 1948 revolution</td>
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<td></td>
<td>Universal Declaration</td>
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<td></td>
<td>Treaty of London</td>
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<td></td>
<td>UN Charter</td>
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<td></td>
<td>ECHR</td>
<td></td>
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<tr>
<td></td>
<td>UN Instruments</td>
<td></td>
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<tr>
<td></td>
<td>Outline of course</td>
<td></td>
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</tbody>
</table>
| Week 2 | 4/9 – 6/9/2018 | Relationship of the individual to the state  
- Totalitarianism  
- Democracy/constitutionality  
The enhancement of man  
Lauterpacht  
The concept of dignity  
Torture, inhuman and degrading treatment (Article 3) |
| Week 3 | 11/9-13/9/2018 | Article 3 continued : denial of dignity as infringement of Article 3 per se?  
Right to liberty  
All aspects of detention  
Compensation for unlawful detention  
Difficulties in taking cases to the ECtHR  
General description of workings of court |
| Week 4 | 18/9-20/9/2018 | Introduction to fair trial provisions  
Convention ensuring common and enforceable standards  
Presumption of innocence  
Juries, no juries  
Press freedom  
Importance for European integration  
Mutual Recognition & Trust  
Absence of *demos* – compare Nordic countries  
- *Demos* receding in much of EU |
| Week 5 | 25/9 – 27/9/2018 | No crime without law  
No punishment, without trial  
Articles 6 & 7  
Detention as punishment  
Fair trial rights – criminal  
- obligations on prosecution  
- fundamental defence rights  
Fair trial rights – civil |
| Week 6 | 2/10-4/10/2018 | Right to life – Article 2  
- death penalty  
- abortion  
- euthanasia  
- assisted suicide  
Right to respect for private and family life (Article 8) |
| Week 7 & Mid-term Week | 9/10- 11/10/2018 | REVISION SESSION  
Mid-Term Exams |
| Week 8 | 16/10-18/10/2018 | Article 2 & positive obligations  
- environment  
- safety  
Article 4: prohibition of slavery & trafficking  
Modern slavery |
<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>Session 7</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 9</td>
<td>23/10 - 25/10/2018</td>
<td>Political Rights: self-determination, territorial integrity, minority rights / language rights</td>
</tr>
<tr>
<td><strong>Session 8</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Fall Recess – 29 October to 4th November 2018 – NO CLASSES</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Practical examples  
- wearing of cross, burka, skull-cap, religious demonstrations |
| **Session 9** | | |
| Week 11 | 13/11 – 15/11/2018 | Right to property  
Article 6 – civil limb revisited  
Discussion of recent case-law |
| **Session 10** | | |
| Week 12 | 22/11/2018 (half session) | Right to effective remedy (Article 13)  
Derogations (Article 15)  
Non-discrimination (Article 14) |
| **Session 11** | | |
| Week 13 | 27/11 – 29/11/2018 | Human Rights and non-state actors  
Revision session |
| Week 14 | | Revision or catching up if time lost during term |
| Week 15 | | FINAL EXAMS |

**Wider Reading by Topic**

(Reminder: reading material for each session will be distributed beforehand)

**History of Human Rights Law**


Lauterpacht, Hersch  An International Bill of the Rights of Man, OUP
Robinson et.al  *European Legal History*, OUP, chapter 18,

**Totalitarianism**

Arendt, Hannah  *The Origins of Totalitarianism*, Harcourt Brace & Co
Arendt, Hannah  *Eichmann in Jerusalem*, Viking Press
Fallada, Hans  *Jeder stirbt für sich allein*, Aufbau Verlag
Jeffreys, Diarmid  *Hell’s Cartel: IG Farben and the Making of Hitler’s War Machine*, Bloomsbury
Levi, Primo  *Se questo è un uomo/La Tregua*, Einaudi
Shirer, William L.  *The Rise and Fall of the Third Reich*, Simon & Schuster
Speer, Albert  *Inside the Third Reich*, Orion
Zweig, Stefan  *Die Welt von Gestern*, Fischer Verlag

**Dignity**

Clapham, Andrew  Human Rights Obligations of Non-State Actors, OUP, Chapter 11
**Torture and related abusive treatment**


Bassiouni, M. Cherif *The Institutionalization of Torture by the Bush Administration - Is Anyone Responsible?* Intersentia, 2010


**Life, Death Penalty, Abortion, Assisted Suicide, Euthanasia**


**Positive Obligations**

ECHHR Handbook on Article 2

ECHHR Handbook on Positive Obligations

ECHHR Cases *Ömer Yildiz v Turkey*, 30/11/2004; *Kalender v Turkey*, 15/12/2009

UN Norms on the Responsibilities of Transnational Corporations and Other Business Entreprises with Regard to Human Rights, 2003
UN Guiding Principles on Business and Human Rights

Montreal Declaration on the Right to Safety


Clapham, Andrew Human Rights Obligations of Non-State Actors, OUP


International Covenant on Economic, Social and Cultural Rights, Articles 6 – 13


**Detention, Slavery and Trafficking**

ECHR Guides to Articles 4 and 7

Anti-Slavery Website (www.antislavery.org)


Fehr, Colton *Domestic Detention* Under Article 78(2) of the ICC Statute, in: Journal of International Criminal Justice, 2017, pp. 31-50


Mauro, Maria *Detention and Expulsion of Migrants: The Khlaifia v. Italy Case*, in: Italian Yearbook of International Law, 2016, pp. 85-107
**Private Life**


**Self-determination**


Crosby & Geater, Self-Determination and Sub-sovereign Statehood in the EU, Faroese Law Review, Vol 1, Issue 1

Gibb, Andrew Dewar *Scotland Resurgent*, ENEAS Mackay, Stirling

Kirby, Michael, *Peoples’ Rights of Self-Determination*, UNESCO Meeting of Experts, Budapest, 25-29 September 1991 (to be sent by email)

Lawrence, T.E. Seven Pillars of Wisdom, Penguin

MacCormick, John *The Flag in the Wind*, Birlinn

MacCormick, Neil Questioning Sovereignty, OUP

MacCormick, Neil, *On self-determination and other things* (to be sent by email)

Supreme Court of Canada Reference Re Secession of Quebec (1998) 2 S.C. R. 217


**Fair Trial**


ECHR Handbook on Article 6, civil limb

ECHR Handbook on Article 6, criminal limb


No punishment without law and no crime without trial

Article 7 ECHR Guide to Article 7 of the European Convention on Human Rights – No punishment without law: the principle that only the law can define a crime and prescribe a penalty (https://www.echr.coe.int/Documents/Guide_Art_7_ENG.pdf)

Freedom of Expression and Association


Randall, Maya Hertig Freedom of Expression in the Internet, in: Swiss Review of International and European Law, 2016, pp. 235-253


Freedom of Religion

ECHRGUIDE to Article 9, Freedom of Thought, Conscience and Religion

Weiler, Joseph H.H. “\textit{Je suis Achhita}” (in English) I-Connect, N° 15, Issue 4: Editorial

Human Rights and Non-State Actors

Smith, Rhona K. M. International Human Rights Law – 8\textsuperscript{th} Edition – OUP, Chapter 23

Article 35(3) Swiss Constitution

Clapham, Andrew  *Human Rights Obligations of Non-State Actors*, OUP


Muchlinski, Peter T.  *Multinational Enterprises and the Law*, OUP, Chapter 13

**Property**


ECHR  Handbook on Article 1 of Protocol N° 1, (Article P1-1)


**Minority rights**